



CREW MEMBER APPLICATION

WE'VE GOT A GREAT SUCCESS STORY!

Taco Bell Corp. is a very successful company. We know how to run restaurants that give our valued customers the quality of food, speed of service, and hospitality of treatment they expect and deserve. We are proud of our company and the people that work for us.

"TACO BELL CORP. : Where friendly people make the difference."

WE REALLY VALUE SOME THINGS THAT YOU SHOULD BE AWARE OF:

- Hospitality
- Quality
- Service
- Cleanliness

WE THINK OUR PEOPLE LEARN A LOT ON THE JOB. FOR EXAMPLE:

- Technical Skills
- Customer Service Skills
- Social Skills
- Business Knowledge
- Organizing and Planning
- Responsibility

First Name	Initial	Last Name	Social Security No. (Optional)	Phone No.
Street		City	State	Zip
Date		Applications are effective for 60 days, after which you must reapply. This time period may be extended if you are interviewed for a Crew position during the 60 day period.		

AVAILABILITY

List hours available to work per week:

Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Sunday	
From	To	From	To	From	To	From	To	From	To	From	To	From	To

If offered a job, how long do you expect to work here? _____

EDUCATION

High School/College	Location City, State	Contact Person: Teacher/Counselor Or Department	Last Grade Completed	Grade Point Avg.	Graduated Or Now Enrolled

Sports/Activities: _____

HOW WOULD YOU RATE YOURSELF ON TACO BELL CORP.'S SUCCESS PROFILE?

(1 = Weak 2 = Improvement needed 3 = Solid 4 = Strength 5 = Superstar)

- ____ Hospitality: Your natural friendliness and customer service skills.
- ____ Energy Level: Your enthusiasm, self-motivation and sense of urgency.
- ____ Reliability: Your dependability, attendance, self-discipline and dedication.
- ____ Communication Skills: Your ability to listen well, express yourself clearly and accept feedback.
- ____ Personal Pride: Your appearance, hygiene and achievement.
- ____ Teamwork: Your cooperation with others and team spirit.

Taco Bell Corp. does not discriminate on the basis of race, color, national origin, sex, religion, age, disability or veteran status, or any other criterion made unlawful under applicable federal or state laws. You are not required to give information responsive to inquiries prohibited by law.

GETTING HIRED WITHOUT A SOCIAL SECURITY NUMBER

The material which follows consists of a series of correspondence between myself and Taco Bell in regards to the hiring of my son for part-time summer work. The entire process took two and a half months. He was initially hired on June 18, 1993, and after a short training session he was fired for refusing to provide the Assistant Manager with a Social Security Number. Extensive long distance phone calls to the Legal Dept. of Taco Bell headquarters in Irvine, California, and to the Legal Dept. of the IRS eventually resulted in the information summarized in the final letter to the IRS at the back of this packet.

The last packet of information which was sent to Taco Bell, and which included the findings of those provisions of the IRS Code detailing how the company is not liable for a penalty (provided they merely ask for the number and it is not forthcoming), is the information which resulted in my son finally getting his job. Inasmuch as the process took almost all summer, Taco Bell decided to award him \$500.00 additional as back pay for the time lost, since they were shown that it was inappropriate and illegal to refuse employment to anyone based upon their refusal to provide a SSN. I would suggest that persons begin with the information in the last letter in this packet, rather than the first, in order to save time, as that was the bottom line to my research into this matter, and it was what garnered the positive results.

The issue of employment is resolved. My son has been offered employment by a national corporation without a SSN. No FICA or income tax was withheld from the \$500.00 settlement check (see copy of check, last page of this book). FICA will not be withheld next summer if he applies for the job, and he may be treated as an independent contractor, or income tax may be withheld. The issue of income tax hasn't yet been fully addressed regarding his pending employment next summer, but Taco Bell finally decided against withholding income taxes from the settlement check, contrary to their initial decision as expressed in the settlement letter. Their final decision was conveyed to me by telephone.

It is interesting to note that close cooperation with Taco Bell's Legal Dept. and a lot of work on my part precluded the necessity of involving the EEOC or the Ohio Civil Rights Commission. Those agencies may or may not have been of much help, but they certainly would have caused an even longer delay. It is always important to try and maintain a good working relationship with the company and their legal department. A courteous sharing of

information has garnered results as quickly as I could have wished. Honey attracts more flies than vinegar, we are told. In addition, it is interesting to note that the paralegal I worked with told me later that the company was very interested in all the information I provided, as it was news to them, and it caused a great deal of interest in their accounting department. The whole idea of not matching funds for withholding FICA is very exciting to all companies, as that is a great expense for them every year. They said they will change their hiring policy as a result of the information, and they were grateful for the information I provided. Many large corporations are very busy, and just don't have the time to do the kind of heavy research necessary to resolve issues of this nature.

I am very pleased with the results, as it has set a precedent with enormous consequences for patriots everywhere. THERE IS ABSOLUTELY NO REASON WHY ANYONE SHOULD SIGN UP FOR SOCIAL SECURITY, OR SIGN UP HIS CHILD FOR SOCIAL SECURITY, EVER.

That which was most gratifying to me was the fact that Taco Bell decided to hire my son with no strings attached. They decided not to ask me to agree with any of their "conditions" they had at first proposed. On August 13, 1993, Taco Bell's Paralegal called me on the phone and told me they have decided to hire my son without any conditions, and that they have decided to award him back pay for the delay.

Arthur Thomas

1993

June 30, 1993

Marilyn Payn
Paralegal for Richard Cline, Esq.
Taco Bell Legal Dept.
FAX : 714-863-2276

Dear Marilyn:

As requested, I am faxing you the enclosed letters and documents for use in determining that my son Arthur can work at Taco Bell here in Milford, Ohio.:

Note: The documents are numbered for this correspondence on the bottom of the first page of each document in large handwritten print. The numbers in the bottom left corner of each page are sequential to this fax.

1. (2 pages) Letter from Social Security Administration dated April 1981 to a person, saying that as a matter of law the SSN is voluntary, but it would be a good idea if you get one because lots of folks use it. Note particularly the last paragraph of page 1 where it says "you should request your employer to enter the phrase "religious objector" in the space required for a social security number when your employer reports your wages and taxes.
2. (1 page) Letter to another individual dated January 1986 stating that Social Security is a voluntary system in that no one is required to get a number.
3. (2 pages) Letter to me dated October 1990. It also states that there is no legal requirement that an individual must obtain a Social Security Number. All three of these letters go on to state that many agencies of government use the number, so in order to obtain the benefits of that agency you will need to get the number. The fallacy of that argument is obvious on it's face. You cannot be required to get something that is voluntary. The letters are ambiguous and inconsistent, as in one letter it tells you to just have the employer fill out "religious objector" in the block, and in another letter it says that the employer "must" provide a number. Pursuant to the Privacy act of 1974, 88 Stat. 1896. Sec. 7. (a) : "It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individuals refusal to disclose his social security number." Logically, the government cannot force a private company to do that which is unlawful for the government to do.
4. (1 page) This document is a letter from the Ohio Bureau of Motor Vehicles office of legal counsel, and is directed to the Deputy registrar to issue me a driver's license without a SSN. My son Arthur (who is applying for the job) also has a driver's license without a number, and it was even easier to get that license without the number, because he never had one to begin with. I had to get rid of my number.
5. (1 page) This is a copy of my Driver's license without a SSN, and a copy of my son's license without a social security number..
6. (1 page) This document is a form letter from the IRS dated December 1988 complaining about my not providing a SSN for the children I listed as exemptions. Please note where I have circled the statement that says "...give us the missing SSN or proof of your claim".

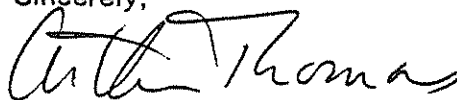
7. (1 page) This is my reply to that form letter in which I inform them that according to their instructions I will supply proof, other than a SSN.
8. (2 pages) This is a threatening letter for 1990 in which the IRS proposef to assess me additional taxes if I didn't provide either a SSN or provide other evidence of the children's identity and status. In this letter you can clearly see that the I.R.S. even underlines the word or in their letter. They know what the law actually says.
9. (3 pages) This is my letter of response in which I provide proof other than a SSN as to the children's identity. An affidavit and a copy of the family bible entry follow.
10. (1 page) This is my "VICTORY" letter of response from the I.R.S. in which they tell me that they are pleased to inform me that they were able to clear up the "discrepancy" based upon the information I furnished. This letter proves many things. It proves that the admonition on the bottom of the 1040 form which says we "must" provide a number for dependent children is not the whole truth. Believe it or not, the I.R.S. lies to us! This letter also proves that the I.R.S. actually knows the law and knows that the bottom line is that the social security number is voluntary, and they cannot force me to get one for my children.
11. (5 pages) This is my son's Affirmation and Declaration of Status which will soon be on file in the County Recorder's office. Mine is already on file there.
12. (1 page) This is a copy of an IRS form 4029.

I enjoyed our telephone conversations thus far, as both you and Mr. Richard Cline, Esq. have been most cordial. However, be advised, that if Taco Bell refuses to hire my son because he has no SSN, then Taco Bell is going to be sued for a fairly largish amount of money in a religious discrimination suit. We know our rights, and we are not socialists. We don't believe in social welfare, and we belong to a church that has it's own welfare program which we have supported for many years. The 1st Amendment to the Constitution has always been upheld by the Supreme Court. I would strongly advise you to take a very close look at all the so called "IRS requirements" that your company provide a SSN for everyone you hire. Nothing was said in the initial interview with Arthur that the SSN was a prerequisite for the job. He was hired. In fact he was hired several times over by different assistant managers who couldn't understand what Liz's concern was all about. He was told that a birth certificate or driver's license was sufficient to supply the proof of citizenship.

I have been successful in my legal battles regarding the SSN issue with the IRS, the Bureau of Motor Vehicles, and with the Social Security Administration. I have no doubt that I will also be successful in any suit of this nature with Taco Bell.

Again, I enjoyed our conversations thus far. I am a reasonable man, and would prefer to resolve this problem quickly and amicably. But neither I nor my son will compromise our firmly held religious beliefs and convictions.

Sincerely,



Arthur R. Thomas

C/O 5134 Sugarcamp Rd., Non domestic
Milford, Ohio State Republic (45150 TDC)

APRIL 27 1981

Refer to:
SEP22
295-36-7386

Mr. George G. Ruege
2741 Markbreit Avenue
Cincinnati, Ohio 45209

Dear Mr. Ruege:

I am responding to your letter about your social security record.

I regret that we cannot return your application for a social security number to you. Because of the large volume of applications we receive, the original applications are not retained.

There is no law which requires an individual to obtain a social security number but the social security number you received was assigned to you on the basis of a valid application and any social security-covered earnings you have had since its issuance are credited to it. Section 205(c)(2)(A) of the Social Security Act requires the Social Security Administration to establish and maintain records of wages paid to and self-employment income derived by each individual whose work is covered under the program. The Privacy Act of 1974 authorizes the Social Security Administration to maintain in its records such information about an individual as is relevant and necessary to accomplish a purpose of the agency that is required by law. Since the Social Security Administration is required by law to establish and maintain records of social security-covered earnings and the social security number is relevant and necessary to accomplish that goal, we regret we cannot destroy your social security number or close your account regardless of whether your social security card is destroyed.

Whether or not you use your social security number is a personal decision you must make each time someone requests it. If you do not wish your employer to use your social security number, you should request your employer to enter the phrase "religious objector" in the space provided for a social security number when your employer reports your wages and taxes.

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Even though the law does not specifically require you to have a social security number, it does require you to pay social security taxes any time you work in a job or self-employment that is covered by social security. Your decision not to use your social security number in no way exempts you from coverage under the Social Security Act and the Federal Insurance Contributions Act. Your employer is required by law to collect the taxes on social security-covered earnings from you and to report those earnings to the Social Security Administration and the Internal Revenue Service. Thus, you cannot withdraw from the social security program as long as the job you hold is covered by it.

No social security benefits will be paid to you unless you file an application and certain requirements are met. If you meet the necessary requirements for benefits anytime in the future and you choose not to receive those benefits, you need only refrain from filing an application.

I am returning your social security card to you, which you may retain or destroy, as you choose.

Sincerely,

Herbert R. Doggett Jr.
Herbert R. Doggett, Jr.
Acting Commissioner

Enclosure

*Gwendolyn
King*

*900 Altmeyer Bldg
6401 Security Bldg.
Balt. Md. 21235*

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Refer to:
SEP62

OCT 17 1960

Baltimore MD 21235

Mr. Arthur Thomas
5134 Sugar Camp Road
Milford, Ohio 45150

Dear Mr. Thomas:

This is in response to your inquiry of September 28.

At present there is no legal requirement that an individual must obtain a Social Security number. However, the Internal Revenue Code (26 U.S.C. 6109 (a)) and applicable regulations (26 CFR 302.6109-1(d)) require an individual to get and use a Social Security number on tax documents and to furnish that number to any other person or institution (such as an employer or a bank) that is required to furnish to the Internal Revenue Service (IRS) information about payment to the individual. There are penalties for failure to do so (see 26 U.S.C. 6676 (a) and 26 CFR 301.6676-1).

We assign a Social Security number to a person when we have received a valid application. Thereafter, we credit earnings to that number since the Social Security benefits for a worker and his or her family depend on the worker's earnings.

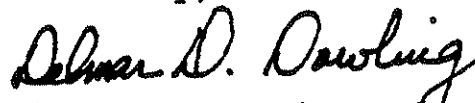
Section 205 (c)(2)(A) of the Social Security Act requires the Social Security Administration to establish and maintain records of wages and self-employment income for each individual whose work is covered under the program and a Social Security number is needed for that purpose. The IRS requires employers to submit Social Security numbers with employee earnings. Workers who object to providing their Social Security numbers to employers for religious or other reasons should contact the IRS office in their area to see if any exceptions are allowed.

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The law requires payment of Social Security taxes any time a person works in a job or self-employment that is covered by Social Security. A decision not to use a Social Security number in no way exempts a worker from coverage. Employers are required by law to collect the taxes on earnings covered under Social Security and to report those earnings to the Social Security Administration and the IRS.

We hope this information is helpful.

Sincerely,

A handwritten signature in cursive script that reads "Delmar D. Dowling".

Delmar D. Dowling, Director
Office of Public Inquiries



GEORGE V. VOINOVICH
GOVERNOR

OHIO
DEPARTMENT OF HIGHWAY SAFETY
BUREAU OF MOTOR VEHICLES

P.O. BOX 16520 COLUMBUS, OHIO 43266-0020 ■ BUREAU OFFICE HOURS 8:00 a.m. to 4:45 p.m. M - F
GENERAL INFORMATION (614) 752-7500 7:00 a.m. to 6:00 p.m. M-F

CHARLES D. SHIPLEY
DIRECTOR

MITCHELL J. BROWN
REGISTRAR

To: Carolyn Y. Williams, Chief, Drivers
From: John R. Guldin, Legal Counsel
Date: February 12, 1992
Subject: Arthur R. Thomas
S.S. Number: [REDACTED]

Arthur R. Thomas has notified the Social Security Administration that he wishes to withdraw from the social security program and have his social security number cancelled based upon his "religious study and firmly held convictions and beliefs...", see attachments.

Based upon his stated religious beliefs, please authorize the appropriate deputy registrar to issue Arthur R. Thomas, date of birth July 25, 1944, a renewal of his driver's license (class D) without any reference to his social security number. Mr. Thomas shall not be issued a commercial driver's license of any class without first obtaining and submitting a valid social security number.

Please contact me if you have any questions. Thank you for your cooperation.

John R. Guldin
Legal Counsel

JRG:drw:0-01

Attachments:



Department of the Treasury
Internal Revenue Service
CINCINNATI, OH 45999

Date of this notice:
Taxpayer Identifying Number:
Form: 1040C
Tax Period: 585-14-8135
DEC. 31, 1988

|||||

ARTHUR R & ROSEANN THOMAS
5134 SUGAR CAMP RD
MILFORD, OH 45150-9633

IMPORTANT NOTICE

DEPENDENTS SOCIAL SECURITY NUMBER NOT ON RETURN

THE TAX REFORM ACT OF 1986 REQUIRES THAT YOU SHOW ON YOUR TAX RETURN THE SOCIAL SECURITY NUMBER OF EACH DEPENDENT WHO IS AGE 5 OR OLDER. WE PREVIOUSLY INFORMED YOU THAT THE LAW REQUIRES A SOCIAL SECURITY NUMBER BE INCLUDED ON YOUR TAX RETURN FOR EACH DEPENDENT OVER THE SPECIFIED AGE LISTED ON YOUR TAX RETURN. YOUR TAX RETURN FOR TAX YEAR 1988 DOES NOT HAVE THE SOCIAL SECURITY NUMBER OF THE DEPENDENT(S) YOU CLAIMED. AFTER 1989, THIS REQUIREMENT WILL APPLY TO DEPENDENTS WHO ARE AT LEAST 2 YEARS OLD.

WE HAVE PROCESSSED YOUR 1988 TAX RETURN USING THE EXEMPTIONS CLAIMED EVEN THOUGH YOU DID NOT INCLUDE THE SOCIAL SECURITY NUMBER. HOWEVER, YOU MAY BE CONTACTED BY THE IRS AT A LATER DATE TO GIVE US THE MISSING SSN OR PROOF OF YOUR CLAIM TO THOSE EXEMPTIONS. FOR THE TAX YEAR 1989, YOU MUST INCLUDE THE NAME AND SOCIAL SECURITY NUMBER FOR EACH DEPENDENT YOU CLAIM WHO IS AGE 2 OR OLDER. *

IF YOUR DEPENDENT DOES NOT HAVE A SOCIAL SECURITY NUMBER OR YOU DO NOT HAVE A RECORD OF THE NUMBER, YOU MUST CONTACT YOUR LOCAL SOCIAL SECURITY OFFICE AND ASK FOR THEIR HELP. IF YOU NEED TO GO TO YOUR LOCAL SOCIAL SECURITY OFFICE, PLEASE TAKE A COPY OF THIS NOTICE WITH YOU.

PERSONS IN MEXICO NEEDING A SOCIAL SECURITY NUMBER BECAUSE, THEY ARE BEING CLAIMED AS A DEPENDENT ON A U.S. TAX RETURN MAY APPLY AT THE U.S. EMBASSY IN MEXICO CITY OR AT FOREIGN SERVICE POSTS IN CUIDAD JUAREZ, GUADALAJARA, HERMOSILLO, MATAMORAS, MAZATLAN, MONTERREY, MERIDA, AND TIJUANA.

PERSONS IN CANADA NEEDING A SOCIAL SECURITY NUMBER MAY APPLY AT THE U.S. EMBASSY AND FOREIGN SERVICE POSTS. THESE PERSONS SHOULD BRING THE ORIGINAL OR CERTIFIED COPY OF THEIR BIRTH CERTIFICATES AND PROOF OF CITIZENSHIP OR RESIDENCY IN THE U.S., MEXICO OR CANADA.

THOSE PERSONS LIVING NEAR THE UNITED STATES BORDER MAY FIND IT CONVENIENT TO GO TO THE SOCIAL SECURITY OFFICE IN THOSE AMERICAN CITIES NEAREST TO THEM TO COMPLETE FORM SS-5-FS (APPLICATION FOR SOCIAL SECURITY CARD).

THIS IS AN INFORMATION NOTICE.

DO NOT FILE AN AMENDED RETURN TO PROVIDE MISSING
SOCIAL SECURITY NUMBERS FOR TAX YEAR 1988.

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Taco Bell Corp.
17901 Von Karman
Irvine, California 92714-6212
Telephone 714 863 4500

July 2, 1993

Mr. Arthur Thomas
5134 Sugarcamp Road
Milford, Ohio 45150

Re: Offer of Employment Accommodation

Dear Mr. Thomas:

This will serve to reiterate the offer of accommodation that I conveyed to you yesterday because of your religious belief that social security numbers are not constitutional.

Taco Bell is required by federal regulation to get social security numbers from its employees for the purposes of reporting their income. An employer cannot continue to employ an individual for whom they could not legally report earnings. In fact, there are penalties imposed on the employer for failing to adhere to this regulation.

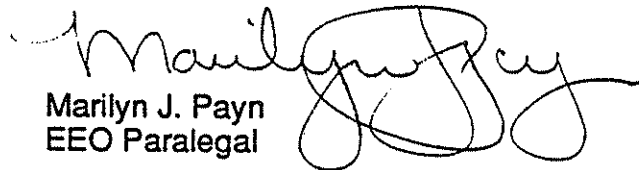
The proposed accommodation is twofold as follows; we will employ your son if: 1) you provide Taco Bell with a statement from the Internal Revenue Service stating that Taco Bell will be exempt from the regulations that requires the Company to get a social security number for your son, or, 2) you agree to sign a "hold harmless" agreement which states that you will assume personal responsibility for any penalties imposed on Taco Bell for failing to obtain the required social security number.

Title VII of the Civil Rights Act of 1964 imposes a duty on the employer to provide a "reasonable accommodation" of an employee's religious beliefs. An employer is not required to provide an accommodation that imposes an undue burden on the employer. We believe the proposed offer of accommodation to be reasonable. We also feel that an undue burden would be imposed on Taco Bell if you required the Company to ignore a federal statute, and then to pay the penalties imposed for such inattention to the law. Moreover, the employee has an obligation to cooperate with reasonable offers of accommodation. In fact, where it appears that the employee has made it more difficult than necessary for the employer to accommodate his religious needs, a claim of discrimination will not be upheld. (Hudson v. Western Airlines, Inc., 851 F.2d 261, 47 FEP Cases 295 (9th Cir. 1988).

Mr. Arthur Thomas
July 2, 1993
Page 2

If you decide to accept our offer of accommodation, please call me directly at 714/863-4618. If I do not hear from you within ten (10) days, I will assume that you do not accept. Please feel free to call me if you have any questions or concerns.

Very truly yours,


Marilyn J. Payn
EEO Paralegal

cc: R. Klein
Manager; EEO & Compliance

July 15, 1993

Marilyn J.-Payn
EEO Paralegal
Taco Bell Corp.
17901 Von Karman
Irvine, California 92714

RE: Offer of Employment

Dear Mrs. Payn:

This is to follow up the telephone conversation we had about a week ago in which you agreed to give me a little more time than the 10 days mentioned in the letter to decide on your offer of accomodation. I have not yet accepted your offer, but I do not want to make a decision yet until I hear back from the IRS. They promised they would get back to me in 10 days with an answer.

I would like to clarify a little misunderstanding that is apparent from your letter. In your first sentence you state that it is my religious belief that social security numbers are unconstitutional. I do not have any such religious belief. My religious belief is that Israel should not be numbered, and the Social Securiuty number is a mark of the beast system which we are warned in the scriptures to avoid. I also believe that social welfare is a great evil because it destroys incentive, contrary to the biblical injunction that man is to earn his bread by the sweat of his brow. The evils of the dole are well known also to my church, and leaders have repeatedly warned against it.

I am considering acceptance of your first offer provided I am able to get that statement from the IRS. I am fairly certain that I may be able to provide you with it. Until I am more certain that I can get it, however, I wish to keep my options open as to rejecting your offer entirely. Your second offer is inappropriate and I do not accept it.

I spoke with Kathy Bissell, Attorney for EEOC in Dallas re. unreported case Bruce Hanson v. Information Systems and she is sending me some information on that case. The Plaintiff there had a very similar position as m y on. He not only did not have a SSN but he rejected the alternative offer of assignment of a number from the IRS which isn't involved with social security, again on religious grounds, as it is "numbering Israel" which he doesn't believe in.

I will call or write as soon as I hear back from the IRS on this issue.

Sincerely,



Arthur Thomas
C/O 5134 Sugar Camp Rd., Non Domestic
Milford, Ohio State Republic (45150 TDC)

It is UNLAWFUL in the State of Ohio to deny equal employment opportunity on the basis of

race, color, religion, sex,
national origin, handicap,
ancestry, or age

Summary Provisions of the OHIO FAIR EMPLOYMENT PRACTICES LAW

(For complete text see Sections 4112.01 to 4112.11 and Section 4112.99 of the Ohio Revised Code)

It is unlawful:

For EMPLOYERS to deny equal opportunity in hiring, tenure, terms, conditions or privileges of employment;

For LABOR UNIONS to deny admission, limit or classify members;

For EMPLOYMENT AGENCIES to refuse or fail to accept, register, classify properly or refer for employment;

on the basis of race, color, religion, sex, national origin, handicap, ancestry or age.

Further, it is an unlawful discriminatory practice, prior to employment or admission to union membership, to request any information or keep records, print or publish notices or advertisements which indicate a person's race, color, religion, sex, national origin, handicap, ancestry or age.

This law applies to:

Employers of four or more persons, including the State or any political subdivision thereof;

Employment agencies operating with or without compensation;

All employers, labor organizations or joint labor - management committees controlling apprentice training programs;

Any person who obstructs or hinders compliance with this act.

The purpose of this law is to prevent and eliminate the practice of discrimination in employment against any person because of race, color, religion, sex, national origin, handicap, ancestry or age.

Any person or persons claiming to be aggrieved or having knowledge of alleged discrimination or the Ohio Civil Rights Commission on its own initiative may utilize this law by filing a charge affidavit.

For additional information, contact the regional office of The Ohio Civil Rights Commission. Addresses are listed below.

Central Office
220 Parsons Avenue
Columbus, Ohio 43266-0543
614/466-2785
614/466-9353 (TTY)

Cleveland Regional Office
Frank J. Lausche Building-Suite 885
615 West Superior Street
Cleveland, Ohio 44113
216/622-3150 (Voice/TTY)

Dayton Regional Office
800 Miami Valley Tower
40 West Fourth Street
Dayton, Ohio 45402
513/449-6500 (Voice/TTY)

Toledo Regional Office
Room 936
One Government Center
Jackson and Erie Streets
Toledo, Ohio 43604
419/245-2900 (Voice/TTY)

Columbus Regional Office
220 Parsons Avenue
Columbus, Ohio 43266-0543
614/466-5928 (Voice/TTY)

Akron Regional Office
Akron Government Center-Suite 205
161 S. High Street
Akron, Ohio 44308
216/379-3100 (Voice/TTY)

Cincinnati Regional Office
200 Goodall Complex
324 West 9th Street
Cincinnati, Ohio 45202
513/852-3344 (Voice/TTY)

Ohio Civil Rights Commission Regions (6)



presupposes the all inclusive term "CREED" which is defined as your personal beliefs. I do not personally believe in social welfare or social insurance.



Richard F. Celeste
Governor

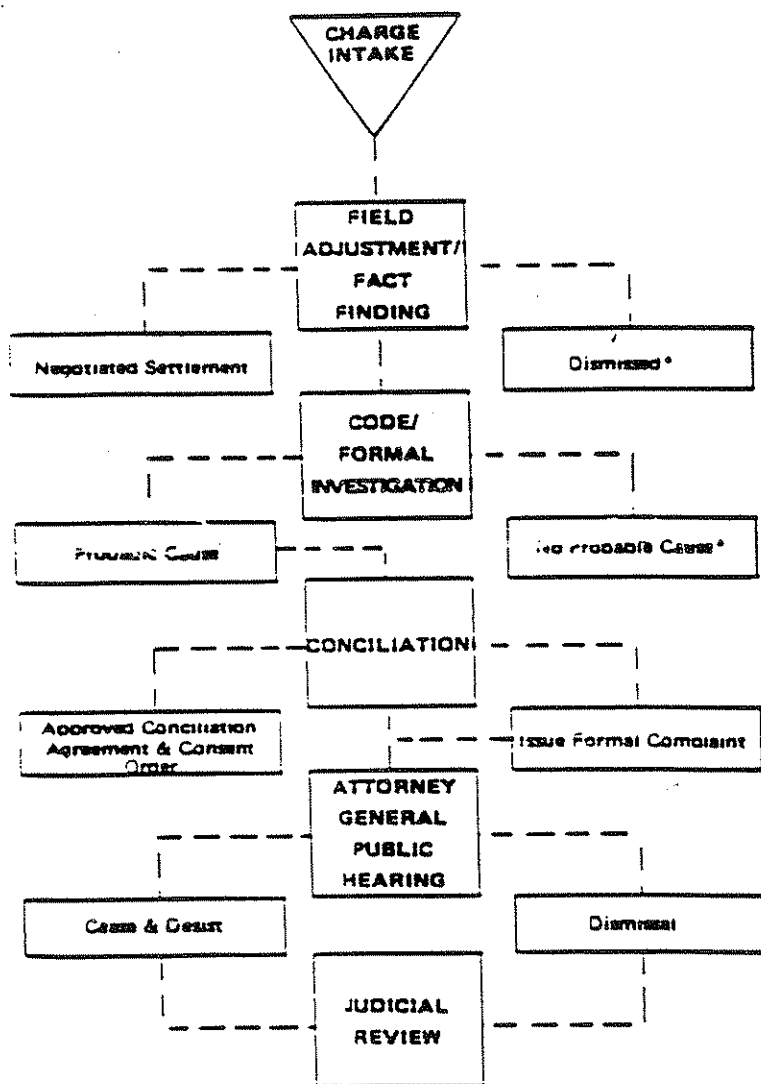


George V. Veinovich
Governor

Ohio Civil Rights Commission

220 Parsons Avenue, Columbus, OH 43266-0543, (614) 466-2785, FAX (614) 644-8776

Geor



*Request for Reconsideration

Field Adjustment/Fact Finding

As soon as possible after your charge is received, the Civil Rights Representative will contact the respondent (the party responsible for the discrimination) and attempt to settle the matter informally. If the respondent agrees to settle the matter, you will be contacted and the terms of the settlement will be explained to you. If you agree with the terms, the settlement will be signed and put into effect. Your case will be closed after the Commission has determined that the respondent has lived up to the settlement. Often, a Fact Finding Conference is conducted to determine the preliminary facts in a charge of discrimination. Fact Finding consists of a face-to-face meeting with the Complainant, the Respondent, and the Civil Rights Representative in charge. The Representative leads the meeting during which an equitable resolution to the allegations is sought.

If you disagree with the terms offered by the Respondent but the Commission finds them acceptable, the Commission will review the situation and determine whether a full-scale investigation of your charge should take place. In the event that the Commission decides not to investigate your charge, you have the right to request reconsideration of the decision.

An Equal Opportunity Employer

AKRON
Akron Government Center
Suite 205
161 South High Street
Akron, Ohio 44308

CINCINNATI
200 Goodall Complex
324 West 9th Street
Cincinnati, Ohio 45202
513-852-3344

CLEVELAND
Frank Lausche Building
Suite 885
615 West Superior
Avenue
Cleveland, Ohio 44115

COLUMBUS
220 Parsons Avenue
Columbus, Ohio
43268-0543
614-466-6928

DAYTON
300 Miami Valley Tower
40 West 4th Street
Dayton, Ohio 45402
513-449-6600

TOLEDO
One Government Center
Room 936
Jackson and Erie Streets
Toledo, Ohio 43604



George V. Veinovich
Governor

Ohio Civil Rights Commission

220 Parsons Avenue, Columbus, OH 43266-0543, (614) 466-2785, FAX (614) 644-8776

If you file an employment charge, and the employer is covered by Title VII:

The Ohio Civil Rights Commission (OCRC), an agency of the State of Ohio, and the Equal Employment Opportunity Commission (EEOC), an agency of the United States Government, are cooperating to give your charge a rapid and complete investigation.

The charge you have just filed will be initially investigated by either the OCRC or the EEOC, depending on the nature of your problem. The agency which will investigate your charge will let you know what progress has been made, and before you leave this office today you will be given the address and telephone number of the agency handling your charge.

When one agency completes its investigation of your charge it will share the information it has gathered with the other agency. When the case is closed by one agency, it may be closed by the other, provided that the investigation meets the standards for thoroughness set by the agency. You will be given as full as possible an explanation for the actions taken in your case.

If you have any questions about the procedures of either the EEOC or the OCRC, please refer them to the person to whom you are speaking.

If your charge is being initially investigated by the OCRC:

As soon as your charge is received, the OCRC will contact the Respondent (the person responsible for the alleged discrimination) and attempt to settle the matter. If the Respondent agrees to settle the matter, you will be contacted and the terms of the settlement will be explained to you. If you agree with the terms, the settlement will be signed and put into effect. Your case will then be closed after the Commission determines that the Respondent has lived up to the settlement.

If you disagree with the terms offered by the Respondent, the Commission will review the situation and determine whether a full-scale investigation of your charge should take place. In the event that the Commission decides not to investigate your charge, you have the right to request reconsideration of the decision.

An Equal Opportunity Employer

AKRON	CINCINNATI	CLEVELAND	COLUMBUS	DAYTON	TOLEDO
Akron Government Center Suite 205 161 South High Street Akron, Ohio 44308 216-379-3100 Voice-TTY	200 Goodall Complex 324 West 9th Street Cincinnati, Ohio 45202 513-852-3344 Voice-TTY	Frank Lausche Building Suite 885 615 West Superior Avenue Cleveland, Ohio 44113 216-622-3150 Voice-TTY	220 Parsons Avenue Columbus, Ohio 43266-0543 614-466-6928 Voice-TTY	800 Miami Valley Tower 40 West 4th Street Dayton, Ohio 45402 513-449-6500 Voice-TTY	One Government Center Room 936 Jackson and Erie Streets Toledo, Ohio 43604 419-245-2900 Voice-TTY

COMPLAINANT INTAKE FORM - PART II

As a Complainant, you should:

1. Read the charge affidavit carefully.
2. Be certain you understand what it says, particularly the part concerning your right to file with EEOC under Title VII.
3. If you do not understand, ask to have it explained.
4. If the charge affidavit is not completely true, make sure it is corrected before you sign it.
5. Give the Commission your correct address and telephone number.
6. If you change phone numbers or move, contact the Commission immediately with your new address and phone number. If you fail to keep in touch with the Commission, your case may be dismissed if you cannot be located.
7. Give the Commission the name, address and telephone number of another person who will always know how to contact you.
8. Pursue other remedies available to you through your employer's affirmative action plans, discipline review proceedings, and union proceedings.

As a Complainant, you are responsible for:

1. Keeping in touch with the Commission. If you move or change phone numbers, contact the Commission at once. If you cannot be located, your case may be dismissed.
2. Helping the Commission prove your case, including providing the Commission with the names, addresses and telephone numbers of witnesses with knowledge of the facts. If the witnesses move, you may be asked to help locate them.
3. Seeking other work if you have been discharged. You should keep careful records of where and when you apply. Failure to seek work or lack of evidence regarding such efforts will result in a loss of any back pay award which might otherwise be awarded to you.

4. Appearing at depositions, if any are held, in preparation for public hearing, at which you will give sworn testimony. Failure to appear will result in dismissal of your charge.
5. Appearing at a public hearing, if any is held, at which you will give sworn testimony and be cross-examined by the employer's attorney. Failure to appear will result in dismissal of your charge.

As a Complainant, you may:

1. Retain a private attorney to represent you.
2. File with the Equal Employment Opportunity Commission, a federal agency. Filing with the Equal Employment Opportunity Commission is advisable.

ACKNOWLEDGEMENT

My signature acknowledges that I have read the above document concerning Field Adjustment and the procedure of processing charges of discrimination, and understand the procedure, my responsibilities, rights and privileges as a Complainant before the Ohio Civil Rights Commission. I have received a copy of this form.

Signed _____

Date _____

NOTICE

In response to your inquiry concerning employment discrimination the following is relevant.

A questionnaire and affidavit are attached. Please fill it out and return it. Please note that it is very important that you answer the questions completely, giving as much information as possible. Please be explicit in giving names, dates, etc. for all incidents you describe to the best of your ability. SIGN EACH PAGE.

A charge of employment discrimination must be filed within the time limits imposed by law, generally within 180 to 300 days of the alleged discrimination. As necessary an Investigator from this office will contact you.

Enclosure:
Questionnaire
Affidavit



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Cincinnati Area Office

525 Vine Street, Suite 810
Cincinnati, OH 45202-3122

PII: (513) 684-2851

TDD: (513) 684-6698

FAX: (513) 684-2361

QUESTIONNAIRE

1. YOUR NAME _____
ADDRESS _____

CITY _____ ST _____ ZIP _____

PHONE NUMBER _____ COUNTY _____

2. COMPANY NAME _____
ADDRESS _____

CITY _____ ST _____ ZIP _____

PHONE NUMBER _____ COUNTY _____

NUMBER OF EMPLOYEES IN THE COMPANY? _____

NAME OF CHIEF EXECUTIVE OFFICER OR PERSONNEL MANAGER

NAME/TITLE _____

ADDRESS _____

3. YOUR RACE _____ SEX _____ AGE _____

DATE OF BIRTH ____/____/____

SOCIAL SECURITY # ____ - ____ - ____

4. DATE OF HIRE _____ PRESENT JOB TITLE _____

DEPARTMENT _____ HOW LONG IN THIS JOB? _____

IF YOU HAVE FILED A CHARGE WITH THE OHIO CIVIL RIGHTS COMMISSION ON
THESE ISSUES, YOU DO NOT HAVE TO FILE WITH THE EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

DATE _____ SIGNATURE _____ PAGE 1 OF 3

5. Describe in detail the harm that has occurred. Be sure to give dates, place and who took the action. Identify people by name and title. Identify race, sex, age etc. (Use extra paper if needed.)

6. Relate the reasons given by the Company for the actions taken against you. Be sure to identify dates, names and titles of persons involved. (Use extra paper if needed.)

7. Has anyone been treated differently than you under the same kind of circumstances? Identify them by name and describe how they were treated. (Use extra paper if needed.)

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

8. Why do you feel you were treated in a discriminatory manner?
(Use extra paper if needed.)

9. Give the name address and phone number of any witnesses.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

DATE _____ SIGNATURE _____ PAGE 3 OF 3

STATE OF _____

CASE NAME _____

CITY/COUNTY OF _____

CASE NUMBER _____

AFFIDAVIT

I, _____ being first duly sworn upon my oath affirm and hereby say:
(Name)

I have been given assurances by an Agent of the U.S. Equal Employment Opportunity Commission that this Affidavit will be considered confidential by the United States Government and will not be disclosed as long as the case remains open unless it becomes necessary for the Government to produce the affidavit in a formal proceeding. Upon the closing of this case, the Affidavit may be subject to disclosure in accordance with Agency policy.

I am _____ years of age, my gender is _____ and my racial identity is _____
(sex) (race)

I reside at _____
(Number/Street)

City of _____, County of _____

State of _____, Zip Code _____

My telephone number is (including area code) _____

My complaint is against _____ which is
(Name of Union/Company/Agency)
located at _____
(Number/Street)

in _____
(City) (State) (Zip)

My job classification is (if applicable) _____
(job title)

My immediate supervisor is (if applicable) _____
(Name) (job title)

1. Respondent's business:

2. Personal harm:

(initials) Page 1 of _____

STATE OF _____
CITY/COUNTY OF _____

CASE NAME _____
CASE NUMBER _____

AFFIDAVIT (cont.)

3. Respondent's explanation for the alleged harm and its policies and practices:

4. Charging Party's rational basis for believing there was discrimination:

5. Comparators names, titles, and how similarly situated

I have read and had an opportunity to correct this Affidavit consisting of _____ handwritten ☐
typed ☐ pages and swear that these facts are true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me

this _____ day of _____

STATE OF _____
CITY/COUNTY OF _____

CASE NAME _____
CASE NUMBER _____

AFFIDAVIT (cont.)

6. Witness identification:

7. Class harm:

8. Remedy:

9. Other relevant information:

I have read and had an opportunity to correct this Affidavit consisting of _____ handwritten ☐
typed ☐ pages and swear that these facts are true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me _____

this _____ day of _____

July 30, 1993

Marilyn J. Payn
EEO Paralegal
Taco Bell Corp.
17901 Von Karman
Irvine, California 92714

Re: Offer of Employment

Dear Mrs. Payn:

I have been busy investigating the IRS position in regards to penalties against Corporations which fail to furnish TIN's for employees, and I have discovered some interesting facts which should completely resolve our dilemma.

The bottom line is that no penalty will be imposed on a Corporation by the IRS if the failure to show a SSN or TIN for an employee was due to reasonable cause and not to wilfull neglect, and the penalty is not normally even assessed for de-minimis failures. I spoke at some length to Peg Owens, Atty. for the IRS in Washington D.C., (202) 622-4940 on Wednesday, and she explained that there are three sections of the IRS Code which apply to the circumstance in question. She referred me to 26 USC § 6109(a)(3), 26 USC § 6721(a)(2)(B), § 6721(c)(1)(B), and 26 USC § 6724(a). I have reproduced those sections of Title 26 and have circled the applicable sections of the Code. She explained that these passages came about, for the most part, as a result of the passage of the Public Law 101-239 on December 19, 1989 (The Omnibus Budget Restoration Act which we spoke about earlier).

The IRC sections referred to above support the policy which Peg Owens explained on the phone to me Wednesday. She explained that according to the IRC code the employer is to REQUEST (§ 6109(a)(3)) the employee to provide the employer with his SSN or TIN. If the employee refuses to provide the number (regardless of whether it is a religious issue or for any other reason) and the employer fails to include that information in his return then a penalty normally is imposed (§ 6721(a)(2)(B)). But if there is just one or two returns with the SSN left out then § 6721(c)(1)(B) applies, because the penalty provided in § 6721 (a) is only \$50.00 per incomplete return, and that is considered to be a "de-minimis failure" (§ 6721 (c)). I looked up "de-minimis doctrine" in Black's Law Dictionary, and it says that:

"The law does not care for, or take notice of, very small or trifling matters. The law does not concern itself about trifles."

Peg Owens explained that the IRS would not normally go to the trouble of imposing a penalty of \$50.00 on a company which omitted one SSN. She said that was a "de-minimis failure" which would fall under § 6721(c). In connection with § 6721(c)(1)(B) we are additionally referred to § 6724(a) which states that no penalty shall be imposed if it is shown that such failure is due to reasonable cause and not to willful neglect. Peg Owens said that the probability of assessment is pretty remote if it is just one return involved, but she explained that if for some reason (through computer-generated automatic assessment procedures) the assessment was sent to the employer, a simple letter explaining that the SSN was requested but not provided, will be sufficient to waive the penalty pursuant to § 6724(a). Since we are talking about a summer job for one youth, it certainly appears to be a de-minimis issue, and I wouldn't mind writing a letter to the IRS on behalf of Taco Bell once a year on behalf of Arthur if he worked that year for Taco Bell.

I asked Peg if she could send me or you a letter exempting Taco Bell from the requirement to provide the number in advance of sending the return in. She explained that letters of that type were not sent prior to receiving the return, as a matter of policy, but that she could send a "policy-letter" which explains the policy of waiving the penalty in the circumstance explained in our letter requesting that policy statement. I told her if that was all she could provide, at least it would give Taco Bell something to go on, as a letter from the IRS, and would probably satisfy the proposed requirement No. 1 of proposed accommodation which you sent me. She cautioned me, however, that the letter will probably take her at least 30 days to respond to, because she answers mail in the order it arrives, and she has a lot of it. Nevertheless, I will immediately send that letter to the IRS, requesting a policy statement for you. I am enclosing a copy of my letter to the IRS for you.

Arthur will have to go back to school in a few weeks, so he is anxious that he get to work as soon as possible. He tells us that he wants to save for college and a car and a raft trip and so on. Well, I am not sure how far the savings from a summer job can go towards all those worthy goals, but I am in sympathy with his goals, and hope that we can soon resolve these issues so that he can make some money. He is a little despondent about not having had the opportunity for the past two months to work for Taco Bell, and I feel it would only be fair that he receive back pay for the time he could have worked, inasmuch as it is now very clear that there is no real requirement that the employer furnish the number if the employee refuses to provide it. If we have to wait on that letter from the IRS Arthur will be back in school. Perhaps you would be satisfied by simply calling Peg and verifying

with her what I have stated and enclosed with this letter.

If that will suffice, please call Peg right away and then call that local Taco Bell restaurant here, (907 St. Rt. 28, Mulberry, Ohio) and tell "Liz" that it is OK to hire Arthur without the SSN. Their number is (513) 248-2040. Then please call me and let me know what the status is regarding his employment and back pay, so that we can get Arthur in to work as soon as possible.

If you absolutely refuse to hire him before receiving the policy letter from the IRS, then in order to expedite things I will tentatively agree to your requirement of accommodation no. 2 given in your letter of July 2, 1993 which states that I agree to sign a "hold harmless" agreement which will state that I will assume personal responsibility for any penalties imposed on Taco Bell for failing to obtain the required social security number ON CONDITION that:

1. The agreement states that I am to be notified immediately when a notice of proposed penalty is received by Taco Bell for failure to include the number, and that copies of all correspondence from and to the IRS regarding this penalty be forwarded to me immediately by mail or fax as the need arises.
2. That the assumption of personal responsibility will be ONLY for penalties imposed as a result of the omission of the SSN on Arthur's W2 return, and not for omission of the SSN for any other employee or for any other reason on Arthur's or anyone else's return.
3. That I be permitted to respond to any notice of proposed penalty in a letter on behalf of Taco Bell, or that I be permitted to write the letter, and then forward it to you for editing or changing to suit your fancy, provided that the ultimate letter which is sent to the IRS retains the essential explanation that the SSN was requested but not obtained, and thus the failure to include the number was due to reasonable cause and not to willful neglect.
4. That I have the option of negotiating with Taco Bell as to the wording of the "hold harmless" agreement if there is any other particular about it with which I feel uncomfortable for any reason, and that this proposed agreement with your proposed accommodation does not bind me to an agreement to sign the proposed agreement until I am satisfied as to its wording.

If you will agree to these terms, I will agree to your proposal no. 2, however I would prefer that you simply speak with Peg in Washington and get a verbal confirmation as to what I have explained above, and employ Arthur prior to receiving that IRS policy letter.

I am also enclosing copies of the EEOC brief and subsequent determination of the EEOC in the unreported Bruce Hanson case in Dallas, Texas, in which it was determined that the employer failed to reasonably accomodate the religious beliefs of the employee because the offer of a TIN in lieu of a SSN was an unreasonable accommodation in that the law permits the employer to simply ask for the SSN, and if it is refused, to simply notify the IRS by affidavit, that it had requested the number. On page 7 of the EEOC's brief it is interesting to note that the decision to fire Mr. Hanson based upon his not having obtained a SSN was a decision BASED SOLELY UPON THE POLICY OF THE COMPANY, AND NOT BASED UPON ANY REQUIREMENT OF THE IRS OR OF THE LAW, as the provisions of the IRC provide for a waiver of any penalty in this regard upon a mere asking for the number and having it refused. The subsequent decision considered the company's failure to accommodate Mr Hanson's religious beliefs according to the provisions permitted by law as an unreasonable attempt of accomodation, despite the company's offer of accommodation to get a TIN for Mr. Hanson. The point I am making is simply that I don't believe your offer of accommodation is a reasonable attempt to accommodate our religious beliefs, because the law provides for a reasonable solution to the issue, pursuant to applicable sections of the IRC and to the EEOC's determination in the Hanson case. But nevertheless, I am willing to tentatively go along with your offer if possible, as I want to make every good faith effort to accommodate Taco Bell's offers, provided we can work together to make those conditions of accommodation agreeable to both of us. At this point I do not think that it is necessary that I involve the EEOC in any way. You seem to be reasonable and I am hopeful that we can resolve this soon and get Arthur his job.

As I read the IRS code and the Hanson brief, it became increasingly clear to me that there is a common thread of law that begins to make itself clear. Even the IRS is not exempt from the law, and it seems to be following the letter of the law, if not the spirit, in that the provisions of the IRC only make it APPEAR TO REQUIRE that which is voluntary, but that other provisions of the IRC explain that an affidavit will resolve the apparent conflict.

If you will recall, in my first packet of information which you received by FAX, I included a copy of correspondence with the IRS which concerned providing a SSN for my children in order to get a dependant-exemption for them. I received the exemption without any penalty being assessed without providing a SSN (and the proposed exemption was considerably in excess of the \$50.00 de-minimis penalty involved with Arthur's issue of employment with Taco Bell), by simply mailing them an affidavit which identified my children. An affidavit is far superior to a presentment in the eyes of the law. In fact most of what the IRS does is by presentment. They nearly always send a PROPOSED

assessment, and then try to get us to agree with them, either by our failure to respond timely by affidavit, or otherwise. As you may know, any bill or presentment, even without a factual basis to substantiate it, becomes the truth after 10 days if there is no factual answer (ie an affidavit) denying it. I could, for example, send you a bill for washing your windows, and if you just ignored it, even though you knew I never washed your windows, I could get a default judgment in my favor and you would have to pay. I might even get you to pay without a court order by writing or sending you other presentments, such as NOTICES of liens and so forth, which are merely threats and intimidation if the NOTICE is not followed up with a lawful LIEN. As you probably know I am actually referring to routine IRS policy. That is exactly how they operate, and I have proved it in the past, and I am perfectly able and willing to prove it in the future, either on behalf of Taco Bell, or for myself or my son. I am not afraid of any presentment they may send me or you, and I should hope that you have enough legal sense to recognize a presentment, whether from the IRS or from anyone else, and give it the low esteem which it may warrant. Presentments MUST be responded to, however, within 10 days or they may become the truth. An affidavit seems to be the key to any positive response to any IRS presentment.

Well, I don't mean to get off on any tirade against the IRS. Please respond with your decision as soon as possible, and let me know about back pay for Arthur. Again, Peg's number is (202) 622-4940.

Sincerely,



Arthur Thomas
C/O 5134 Sugar Camp Rd.,
Non Domestic
Milford, Ohio State Republic (45150 TDC)

Information and returns

added subsec. (c), effective 10/4/76.
 added by subsection (a) shall be after December 31, 1986, the date of the enactment submitted to the Internal Revenue Service.
 If an organization has a copy of the return, it shall be retained "and the telephone number" in subsec. (d), effective 10/4/76.
 added "or 403(a)" for "403", effective for obligations incurred after 10/4/76.

added the first sentence of subsec. (d) and substituted in the second and third sentences, "6036" after "6034", effective for obligations incurred after 10/4/76.
 added the first sentence of subsec. (d) read as follows:
 "The Secretary shall be required to inspect the returns of taxpayers during regular business hours within 180 days after the date of the return."

"Section 6103(f)" 10/4/76.
 added "than in paragraph (a)" after the first sentence of subsec. (f).
 added "last sentence of subsec. (f)" after the first sentence of subsec. (f).

Nothing in the amendment to section 6104 of the Internal Revenue Code shall be construed to require the Secretary to make any such Code.
 added "and for tax yrs. begin" after "and for tax yrs. begin".

added "information required to be furnished to the Secretary under 501(c)(21)." after "information required to be furnished to the Secretary under 501(c)(21)." in subsec. (a)(1)(A).
 added "information required to be furnished to the Secretary under 501(c)(21)." after "information required to be furnished to the Secretary under 501(c)(21)." in subsec. (a)(1)(A).

added "and any letter or other document" after "and any letter or other document" in subsec. (a)(1)(A).
 added "such application" in subsec. (a)(1)(A).
 added "and such application" in subsec. (a)(1)(A).

added "chapter 41 or section 507 or" in subsec. (a)(1)(A).
 added "Secretary" in subsec. (a)(1)(A).

redesignated subpara. (a)(1) as new subpara. (a)(1) and added the heading "C".
 added "and the heading" in subsec. (a)(1)(A).
 added "2(g)(1)(D), substituted paragraph (A)" in subsec. (a)(1)(A).
 added "at the end of" in subsec. (a)(1)(A).
 added "6036, and for application" in subsec. (a)(1)(A).

added the sentence at the end of subsec. (d), effective 1/1/70.
 added "6034, and 6036" for "6034" in subsec. (d).

Information and returns

In '58, P.L. 85-866, Sec. 75(a), designated existing provisions as subsec. (b), and added subsec. (a), effective 11/1/58.

Sec. 6106. Repealed.

In '76, P.L. 94-455, Sec. 1202(b)(1), repealed Code Sec. 6106, effective 1/1/77. Prior to repeal, Code Sec. 6106 read as follows:

"SEC. 6106. PUBLICITY OF UNEMPLOYMENT TAX RETURNS.
 "Returns filed with respect to the tax imposed by chapter 23 shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns described in section 6103, except that paragraph (2) of subsections (a) and (b) of section 6103 and section 7213(a)(2) shall not apply."

Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.

(a) Furnishing copy to taxpayer.

Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

(b) Copy or list to be retained by income tax return preparer.

Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

- (1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and
- (2) make such copy or list available for inspection upon request by the Secretary.

(c) Regulations.

The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be in compliance with the requirements of such subsection by the other persons.

(d) Definitions.

For purposes of this section, the terms "return" and "claim for refund" have the respective meanings given to such terms by section 6696(e), and the term "return period" has the meaning given to such term by section 6060(c).

In '76, P.L. 94-455, Sec. 1203(c), added Code Sec. 6107, for documents prepared after '76.

Sec. 6108. Statistical publications and studies.

(a) Publication or other disclosure of statistics of income.

The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

(b) Special statistical studies.

The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section

USCS Code Sec. 6

6103(b)(2)) and furnish to such party or parties scripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

(c) Anonymous form.

No publication or other disclosure of statistics or information required or authorized by subsection (a) or special statistical study authorized by subsection (b) in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

In '76, P.L. 94-455, Sec. 1202(b), amended Code Sec. 6108, effective 1/1/77. Prior to amendment, Code Sec. 6108 read as follows:

"SEC. 6108. PUBLICATION OF STATISTICS OF INCOME.

"The Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable."

Sec. 6109. Identifying numbers.

(a) Supplying of identifying numbers.

When required by regulations prescribed by the Secretary:

- (1) Inclusion in returns. Any person required under authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.
- (2) Furnishing number to other persons. Any person with respect to whom a return, statement, or other document is required under the authority of this title shall be required to be shown on a return of another person shall furnish to such other person such identifying number as may be prescribed for securing proper identification.
- (3) Furnishing number of another person. Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.
- (4) Furnishing identifying number of income tax return preparer. Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms "return" and "claim for refund" have the respective meanings given to such terms by section 6696(e).

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual's social security account number.

(b) Limitation.

- (1) Except as provided in paragraph (2), a return or statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.
- (2) For purposes of paragraphs (2) and (3) of subsection (a), a return, statement, or other document with respect to another person.

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Information and returns

USCS Code Sec. 6110

tion numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

Is '90, P.L. 101-624, Sec. 1735(c), added subsec. (f), effective and implemented the 1st day of the month beginning 120 days after the publication of implementing regulations. Such regulations shall be promulgated not later than 10/1/91.

—P.L. 101-624, Sec. 2201(d), added subsec. (f) [sic (g)], effective 11/28/90, identifying number is required to be shown on a return of another person shall furnish" for "shall furnish" in para. (a)(2), effective for tax yrs. begin. after 12/31/88.

—P.L. 101-508, Sec. 11112(a), substituted "1 year" for "2 years" in para. (c)(2), effective for returns for tax yrs. begin. after 12/31/90.

Is '88, P.L. 100-485, Sec. 703(c)(3), substituted "or whose identifying number is required to be shown on a return of another person shall furnish" for "shall furnish" in para. (a)(2), effective for tax yrs. begin. after 12/31/88.

—P.L. 100-485, Sec. 704(a), substituted "age of 2" for "age of 5" in para. (c)(2), effective for return the due date for which (determined without regard to extensions) is after 12/31/89.

Is '86, P.L. 99-514, Sec. 1524(a), added subsec. (e), effective for returns the due date for which (determined without regard to extensions) is after 12/31/87.

Is '76, P.L. 94-455, Sec. 1203(d), added para. (a)(4) and the last sentence in subsec. (a), effective for documents prepared after '76.

—P.L. 94-455, Sec. 1211(c), added subsec. (d), effective 10/4/76.

—P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in subsec. (a) and (c), effective 2/1/77.

Is '61, P.L. 87-397 added Code Sec. 6109 and redesignated former Code Sec. 6109 as 6110. Subsec. (a)(1) shall apply only in respect of returns, statements, and other documents relating to periods begin. after '61. Subsec. (a)(2), (3) shall apply only in respect of returns, statements, or other documents relating to periods begin. after '62.

Sec. 6110. Public inspection of written determinations.

(a) General rule.

Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

(b) Definitions.

For purposes of this section—

(1) Written determination. The term "written determination" means a ruling, determination letter, or technical advice memorandum.

(2) Background file document. The term "background file document" with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

(3) Reference and general written determinations.

(A) Reference written determination. The term "ref-

erence written determination" means any written determination which has been determined by the Secretary to have significant reference value.

(B) General written determination. The term "general written determination" means any written determination other than a reference written determination.

(c) Exemptions from disclosure.

Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d)(1), identified in the written determination or any background file document;

(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a proceeding under subsection (f)(3)) to make such deletions.

(d) Procedures with regard to third party contacts.

(1) Notations. If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representative with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

(2) Exception. Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

(3) Disclosure of identity. In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in

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6/86, unless such acquisition is pursuant to a binding contract which was in effect on 5/6/86, and at all times thereafter.

Prior to amendment clauses (d)(1)(B)(viii)-(xi) read as follows:

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(xi) [sic (x)] section 1060(b) (relating to reporting requirements of transferees and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

—P.L. 101-239, Sec. 7813(a), redesignated subpara. (d)(12)(U) as (d)(2)(S), deleted "or" at the end of subpara. (d)(2)(Q) and substituted, "or" for the period at the end of subpara. (d)(2)(R), effective 1/1/89.

In '88, P.L. 100-647, Sec. 1006(b)(3)(A), deleted "or" from clause (d)(1)(B) (ix [sic viii]; substituted, "or" for the period at end of clause (d)(1)(B)(x) [sic ix], and added new clause (d)(1)(B)(xi) [sic x], effective for any acquisition of assets after 5/6/86, unless such acquisition is pursuant to a binding contract which was in effect on 5/6/86, and at all times thereafter

—P.L. 100-647, Sec. 1015(a), substituted "6031(b) or (c)" for "6031(b)" in subpara. (d)(2)(B) [sic A], effective for returns the due date of which (determined without regard to extensions) is after 12/31/86.

—P.L. 100-647, Sec. 3001(b)(1), added new clause (d)(1)(B)(xi) [sic (b)(2)], deleted "or" at end of subpara. (d)(2)(S) [sic Q]; substituted "or" for the period at end of subpara. (d)(2)(T) [sic R], (corrected by P.L. 101-239, Sec. 7813(a), see above), and added new subpara. (U) [sic S], effective 1/1/89. Sec. 3001(c)(2) of this Act Provides:

"(2) Refunds with interest for pre-effective date purchases.—

"(A) In general.—in the case of fuel—

"(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on December 31, 1988,

"(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(1)(2) of the 1986 Code), and

"(iii) with respect to which a claim is not permitted to be filed for any quarter under section 6427(i) of the 1986 Code, the Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(1)(3) of the 1986 Code) if claim therefor is filed not later than June 30, 1989. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(1) of the 1986 Code.

"(B) Interest.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

"(C) Registration procedures required to be specified.—Not later than the 30th day after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section)."

In '88, P.L. 100-418, Sec. 1941(b)(2)(M)(i), deleted clause (d)(1)(B)(i) and redesignated clauses (d)(1)(B)(ii)-(x) as clauses (d)(1)(B)(i)-(ix). . . . Sec. 1941(b)(2)(M)(ii), deleted subparas. (d)(2)(A) and (d)(2)(K) and redesignated subparas. (d)(2)(B)-(T) as subparas. (d)(2)(A)-(R), effective for crude oil removed from the premises on or after 8/23/88. Prior to deletion clause (d)(1)(B)(i) read as follows:

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil)."

Prior to deletion subpara. (d)(2)(A) read as follows:

"(A) section 4997(a) (relating to records and information; regulations). Prior to deletion subpara. (d)(2)(K) read as follows:

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil)."

In '86, P.L. 99-514, Sec. 1301, added Code Sec. 6724, part of Part II of Subchapter B of Chapter 68, effective for returns the due date of which (determined without regard to extensions) is after 12/31/86.

Sec. 6721. Failure to file correct information returns.

(a) Imposition of penalty.

(1) In general. In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$5 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$250,000.

(2) Failures subject to penalty. For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to file an information return with the Secretary on or before the required filing date, and

(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period.

(1) Correction within 30 days. If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

(A) the penalty imposed by subsection (a) shall be \$15 in lieu of \$50, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$75,000.

(2) Failures corrected on or before August 1. If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

(A) the penalty imposed by subsection (a) shall be \$30 in lieu of \$50, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$150,000.

(c) Exception for de minimis failures to include all required information.

(1) In general. If—

(A) an information return is filed with the Secretary,

(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such return, and

(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation. The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

(A) 10, or

(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000.

(1) In general. If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

(A) subsection (a)(1) shall be applied by substituting "\$100,000" for "\$250,000",

(B) subsection (b)(1)(B) shall be applied by substituting "\$25,000" for "\$75,000", and

(C) subsection (b)(2)(B) shall be applied by substituting "\$50,000" for "\$150,000".

(2) Gross receipts test.

(A) In general. A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed \$5,000,000.

(B) Certain rules made applicable. For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(e) Penalty in case of intentional disregard.

If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

(1) subsections (b), (c), and (d) shall not apply,

(2) the penalty imposed under subsection (a) shall be \$100, or, if greater—

(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly,

(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, or

(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

(i) \$25,000, or

(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed \$100,000, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the \$250,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

In '90, P.L. 101-508, Sec. 11318(b)(1), inserted "6050I" after "6050H" in subpara. (e)(2)(A). . . . Sec. 11318(b)(2), deleted "or" at the end of subpara. (e)(2)(A). . . . Sec. 11318(b)(3), substituted "or" for "and" at the end of subpara. (e)(2)(B). . . . Sec. 11318(b)(4), added subpara. (e)(2)(C), effective for amounts received after 11/5/90.

In '89, P.L. 101-239, Sec. 7711(e), amended Code Sec. 6721 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

Sec. 6722. Failure to furnish correct payee statements.

(a) General rule.

In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of \$50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000.

(b) Failures subject to penalty.

For purposes of subsection (a), the failures described in this subsection are—

(1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

(2) any failure to include all of the information re-

quired to be shown on a payee statement or the inclusion of incorrect information.

(c) Penalty in case of intentional disregard.

If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

(1) the penalty imposed under subsection (a) shall be \$100, or, if greater—

(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

(2) in the case of any penalty determined under paragraph (1)—

(A) the \$100,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

In '89, P.L. 101-239, Sec. 7711(a), amended Code Sec. 6722 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

Sec. 6723. Failure to comply with other information reporting requirements.

In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of \$50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000.

In '89, P.L. 101-239, Sec. 7711(a), amended Code Sec. 6723 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

Sec. 6724. Waiver, definitions and special rules.

(a) Reasonable cause waiver.

No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(b) Payment of penalty.

Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

(c) Special rule for failure to meet magnetic media requirements.

No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns.

(d) Definitions.

For purposes of this part—

(1) Information return. The term "information return" means—

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any other (i) section 6041(a) or (b) (relating to certain information at source), (ii) section 6042(a)(1) (relating to payments of dividends), (iii) section 6044(a)(1) (relating to payments of patronage dividends), (iv) section 6049(a) (relating to payments of interest), (v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), (vi) section 6050N(a) (relating to payments of royalties), or (vii) section 6051(d) (relating to information returns with respect to income tax withheld), and (B) any return required by— (i) section 6041A(a) or (b) (relating to returns of direct sellers), (ii) section 6045(a) or (d) (relating to returns of brokers), (iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals), (iv) section 6050I(a) (relating to cash received in trade or business), (v) section 6050J(a) (relating to foreclosures and abandonments of security), (vi) section 6050K(a) (relating to exchanges of certain partnership interests), (vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property), (viii) section 6052(a) (relating to reporting payment of wages in the form of group [term] life insurance), (ix) section 6053(c)(1) (relating to reporting with respect to certain tips), (x) subsection (b) or (e) of section 1060 (relating to reporting requirements of transferors and transferees in certain asset acquisitions), (xi) subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels), or (xii) section 4101(d) (relating to information reporting with respect to fuels taxes) (10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(2) Payee statement. The term "payee statement" means any statement required to be furnished under— (A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-through entities), (B) section 6039(a) (relating to information required in connection with certain options), (C) section 6041(d) (relating to information at source), (D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales), (E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits), (F) section 6044(e) (relating to returns regarding payments of patronage dividends), (G) section 6045(b) or (d) (relating to returns of brokers), (H) section 6049(c) (relating to returns regarding payments of interest), (I) section 6050A(b) (relating to reporting requirements of certain fishing boat operators), (J) section 6050H(d) (relating to returns relating to mortgage interest received in trade or business from individuals), (K) section 6050I(e) (relating to returns relating to cash received in trade or business), (L) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security), (M) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests), (N) section 6050L(c) (relating to returns relating to certain dispositions of donated property), (O) section 6050N(b) (relating to returns regarding payments of royalties), (P) section 6051 (relating to receipts for employees), (Q) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance), (R) section 6053(b) or (c) (relating to reports of tips), or (S) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(3) Specified information reporting requirement. The term "specified information reporting requirement" means— (A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange), (B) any requirement contained in the regulations prescribed under section 6109 that a person— (i) include his TIN on any return, statement, or other document (other than an information return or payee statement), (ii) furnish his TIN to another person, or (iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person, (C) any requirement contained in the regulations prescribed under section 215 that a person— (i) furnish his TIN to another person, or (ii) include on his return the TIN of another person, and (D) the requirement of section 6109(e) that a person include the TIN of any dependent on his return.

(4) Required filing date. The term "required filing date" means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing).

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of clause (d)(1)(B)(i), deleted ", or subsection (e)," in clause (d)(1)(B)(ii), substituted " or" for the period at the end of clause (d)(1)(B)(ii), and added clause (d)(1)(B)(iii), effective 12/1/90.

—P. L. 101-508, Sec. 11323(b)(2), substituted "subsection (b) or (e) of section 1060" for "section 1060(b)" in clause (d)(1)(B)(i). . . . Sec. 11323(c)(2), deleted "or" at the end of clause (d)(1)(B)(i), substituted " or" for the period at the end of clause (d)(1)(B)(ii) [see Sec. 11212(c)(1) above], and added clause (d)(1)(B)(iii) [sic iii], effective for acquisitions after 10/9/90 except as provided in Sec. 11323(d)(2) of this Act, which reads as follows:

"(2) Binding contract exception.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition."

In '89, P.L. 101-239, Sec. 7711(a), amended Code Sec. 6724 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

CHAPTER 69.—GENERAL PROVISIONS RELATING TO STAMPS

Sec.

6801. Authority for establishment, alteration, and distribution.

6802. Supply and distribution.

6803. Accounting and safeguarding.

6804. Attachment and cancellation.

6805. Redemption of stamps.

6806. Posting occupational tax stamps.

6807. Stamping, marking, and branding seized goods.

6808. Special provisions relating to stamps.

Sec. 6801. Authority for establishment, alteration, and distribution.

(a) Establishment and alteration.

The Secretary may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) Preparation and distribution of regulations, forms, stamps and dies.

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

In '84, P.L. 98-369, Sec. 454(c)(13), substituted "several stamp taxes" for "several stamp taxes; except that stamps required by or prescribed pursuant to the provisions of section 5203 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary," in subsec. (b), effective 7/1/85.

In '76, P.L. 94-569, Sec. 2, substituted all that follows "several stamp taxes" for the period at the end of subsec. (b), effective 10/20/76.

—P. L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6801, effective 2/1/77.

Sec. 6802. Supply and distribution.

The Secretary shall furnish, without prepayment, to—

(1) Postmaster General. The Postmaster General a suitable quantity of adhesive stamps, coupons, tickets or such other devices as may be prescribed by the Secretary pursuant to section 6302(b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) are located in county seats, or

(B) are certified by the Secretary to the Postmaster General as necessary.

(2) Designated depository of the United States. Any designated depository of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depository.

In '76, P. L. 94-455, Sec. 1906(a)(36), instructed para. (2) to be amended by substituting a period for a semicolon at the end of para. (2), effective 2/1/77. The Act apparently meant for the amendment to be made at the end of subpara. (1)(B), and has been corrected thusly.

—P. L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6802, effective 2/1/77.

In '65, P. L. 89-44 deleted "(other than stamps on playing cards)" following "adhesive stamps", effective 6/22/65, and deleted subsec. (3), effective 1/1/66. Prior to repeal, subsec. (3) read as follows:

"(3) State agents.

"Any person who is—

"(A) duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State; and

"(B) designated by the Secretary or his delegate for the purpose,

a suitable quantity of such adhesive stamps as are required by section 4301, to be kept on sale by such person."

Sec. 6803. Accounting and safeguarding.

(a) Bond.

In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

(b) Regulations.

The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802.

In '76, P.L. 94-455, Sec. 1906(a)(37), amended Code Sec. 6803, effective 2/1/77. Prior to amendment, Code Sec. 6803 read as follows:

"Sec. 6803. ACCOUNTING AND SAFEGUARDING.

"(b) Depositories and State agents.

"(1) Bond. In cases coming within the provisions of paragraph (2) or (3) of section 6802, the Secretary or his delegate may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary or his delegate, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

"(2) Regulations. The Secretary or his delegate may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraphs (2) and (3) of section 6802."

In '72, P. L. 92-310, 6/6/72, Sec. 230(a), repealed subsec. (a). Prior to repeal subsec. (a) read as follows:

"(a) The Postmaster General.

"(1) Bond and accounting. The Postmaster General may require each postmaster under paragraph (1) of section 6802 to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe.

"(2) Deposit of receipts. The Postmaster General shall at least once a month transfer to the Treasury as internal revenue collections all receipts so deposited."

Sec. 6804. Attachment and cancellation.

Except as otherwise expressly provided in this title, the

stamps referred to, in such manner as the Secretary

in '76, P.L. 94-455, effective 2/1/77.

Sec. 6805.

(a) Authority.

The Secretary may, upon making allowance under authenticating, been spoiled for the purpose, no use.

(b) Method.

Such allowance giving other or redeemer owner there the percentage, but no allowance until it has been proved has been cannot be when the percentage trace the his presentation

(c) Time for.

No claim stamps shall sent within from the Government

(d) Finality.

The finding upon the matter rized by the mistake in subject to re

In '76, P.L. 94-455, effective 2/1/77.

In '58, P.L. 85-625, authorized stamps with unnecessary thereby in manner following day of the days after

Sec. 6806.

Every person employment, (other than 35, under sub E) shall place ment or place such special

In '68, P.L. 90-361, effective 10/1/68.

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U. S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
APR - 1 1992
NANCY DOHERTY, CLERK
Deputy

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

INFORMATION SYSTEMS CONSULTING,
A DIVISION OF DIVERSIFIED HUMAN
RESOURCES GROUP,

Defendant.

CIVIL ACTION NO.

CA3-92-0169-T

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

JEFFREY C. BANNON
Regional Attorney
Conn. Bar No. 301166

KATHERINE E. BISSELL
Supervisory Trial Attorney
Texas State Bar No. 02356020

EQUAL EMPLOYMENT OPPORTUNITY
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Dallas District Office
8303 Elmbrook Drive
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(214) 767-7948

IRS atty
Peg Owens
202-622-4940

IRS Wash. D.C.
Rudolf
Planner

Barbara
Walker

301-6724-1 (c) (e)

202-622-5000

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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

INFORMATION SYSTEMS CONSULTING,
A DIVISION OF DIVERSIFIED HUMAN
RESOURCES GROUP,

Defendant.

CIVIL ACTION NO.

CA3-92-0169-T

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

The Plaintiff, Equal Employment Opportunity Commission (hereinafter the "Commission" or "EEOC"), files this response to Defendant's Motion to Dismiss and Brief filed in support thereof. The EEOC alleged in its Complaint that defendant's failure to accomodate Bruce Hanson's religious beliefs violated Title VII of the Civil Rights Act of 1964. In its motion, the defendant contends that the Commission's complaint should be dismissed because the Commission failed to allege specific and detailed facts concerning Mr. Hanson's bona fide religious belief that prohibits him from obtaining a social security number. Further, the defendant contends that the Internal Revenue Service requires that an employee obtain a social security number and therefore Mr. Hanson's religious belief does not conflict with an employment requirement of the defendant. Finally, the defendant asserts that it could not accommodate Mr. Hanson's belief because it would be subject to penalties under the Internal Revenue Code and the Immigration Reform and Control Act of 1986.

The Commission states that it is unnecessary under the Federal Rules of Civil Procedure to state detailed and specific facts regarding its claim of religious discrimination on behalf of Mr. Hanson in the Commission's complaint. Fed. R. Civ. P. 8. Mr. Hanson has a bona fide religious conviction which prohibits him from obtaining a social security number. Further, the defendant has admitted that it knew of Mr. Hanson's belief but made the decision to terminate Mr. Hanson solely because he refused to obtain a social security number. Finally, as explained more fully below, the defendant could have accommodated Mr. Hanson's religious conviction without suffering undue hardship. For these reasons the Commission requests that the Defendant's Motion to Dismiss be denied.

I. FACTUAL AND PROCEDURAL BACKGROUND

On August 16, 1989, Mr. Bruce Hanson filed a charge of discrimination with the EEOC against the defendant, Information Systems Consulting. In his charge of discrimination, Mr. Hanson alleged that he had been discharged from his employment because he did not have a social security number. Mr. Hanson alleged that he had been discriminated against because of his religion, Christian Fundamentalist, in violation of Title VII. (Copy of the Charge of Discrimination is attached as Exhibit 4). Mr. Hanson holds a sincere religious conviction that a social security number is the "mark of the beast" as set forth in the Holy Bible, Book of Revelations, and to obtain a social security number would be in

direct contradiction to the teachings of the Bible. (Affidavit of Bruce Hanson, attached as Exhibit 1).

In its statement of position provided to the EEOC, the defendant confirmed that Mr. Hanson had been discharged from his employment on August 14, 1989, because he failed to provide the defendant with a social security number. (A copy of the statement of position is attached as Exhibit 5). The statement of position included an affidavit signed by Mr. Tim Fitzpatrick. Mr. Fitzpatrick stated that he interviewed Mr. Hanson for a position of computer programmer on June 26, 1989. At the interview Mr. Hanson advised the defendant that he did not have a social security number for religious reasons. According to Mr. Fitzpatrick a decision was made to hire Mr. Hanson. However, on August 14, 1989, the defendant's accounting department indicated it had a problem with Mr. Hanson's exemption from providing a social security number. On August 15, 1989, Mr. Fitzpatrick advised Mr. Hanson that unless he provided a social security number to the defendant his employment would be terminated. Mr. Hanson confirmed that he would not obtain a social security number and he was discharged by Mr. Fitzpatrick. In its position statement the defendant claimed that it would be subjected to penalties by the IRS if it did not provide the IRS with a social security number for Mr. Hanson.

The Commission investigated the charge of discrimination and issued its determination on May 2, 1990. In its letter of determination the Commission found reasonable cause to believe that the defendant violated Title VII by discharging Mr. Hanson because

he would not obtain a social security number. The Commission determined that the defendant failed to accommodate Mr. Hanson's religious belief against obtaining a social security number. Specifically, the Commission determined that the applicable IRS rules and regulation provided that an employer need only request a social security number from an employee and sign an affidavit that the request had been made. Further IRS regulations provide for a waiver of penalties for reasonable cause. A copy of the letter of determination is attached as Exhibit 6.

II. THE COMMISSION'S COMPLAINT IS SUFFICIENT UNDER RULE 8 OF THE FEDERAL RULES OF CIVIL PROCEDURE

The defendant argues that the Commission's complaint should be dismissed because the Commission has failed to plead detailed facts to establish a claim of religious discrimination. The law is well established that a claimant is not required to set forth specific facts to support general allegations of discrimination. Conley v. Gibson, 355 U.S. 41, 47 (1957). Rule 8 of the Federal Rules of Civil Procedure requires only that the complaint contain "a short and plain statement of the claim that will give the defendant fair notice of the plaintiff's claim and the ground upon which it rests." Id. at 47. The Federal Rules of Civil Procedure allow such "notice" pleading because of the liberal opportunity for discovery and other pretrial procedures designed to define more narrowly the disputed issues and facts. Id. at 48. Further, a court may dismiss a claim pursuant to Rule 12(b)(6) only if it

establishes "beyond doubt that the Plaintiff can prove no set of facts which would entitle him to relief." Id. at 46.

The Commission has pled facts sufficient to give the defendant notice of the claim of religious discrimination under Title VII. Paragraphs seven (7) and eight (8) of the complaint put the defendant on notice that Plaintiff alleged that the defendant violated Title VII by discharging Mr. Hanson and refusing to accommodate his religious belief. If the defendant is unclear about the specific facts surrounding the discharge for religious beliefs more information could be obtained through using the discovery process or filing a motion for a more definite statement pursuant to Rule 12(e) of the Federal Rules of Civil Procedure. However, as is clear from the argument contained in the Defendant's motion and the fact that the defendant was involved in the administrative process with the EEOC prior to the filing of the litigation, the defendant is well aware of the facts surrounding the Commission's claim of religious discrimination. The Commission's complaint is sufficient to give the defendant notice of the claim and therefore Defendant's Motion to Dismiss should be denied.

III. THE COMMISSION CAN ESTABLISH THAT DEFENDANT VIOLATED TITLE VII BY DISCHARGING MR. HANSON BECAUSE OF HIS RELIGIOUS BELIEF.

In order to establish a claim of religious discrimination in employment, the Commission must show that 1) Mr. Hanson had a bona fide religious belief that conflicts with an employment requirement; 2) Mr. Hanson informed the employer of this belief; 3)

Mr. Hanson was discharged for his failure to comply with the conflicting employment requirement. Once the Commission establishes the prima facie case, the burden shifts to the employer to show that it was unable to reasonably accommodate the employee's religious belief without undue hardship. Turpen v. Missouri-Kansas-Texas R. Co., 736 F.2d 1022 (5th Cir. 1984).

A. Mr. Hanson has a bona fide religious belief that prohibits him from obtaining a social security number and he advised the defendant of his belief.

As the Commission established during its investigative process, Mr. Hanson has a sincere religious conviction that a social security number represents the "mark of the beast" as set forth in the Book of Revelations of the Bible. Mr. Hanson believes that to obtain a social security number would be in direct contradiction to the teachings of the Bible. (Affidavit of Bruce Hanson attached as Exhibit 1). Also attached to this memorandum is the affidavit of Scott Brasher, who also attests to Mr. Hanson's religious belief. (Affidavit of Scott Brasher attached as Exhibit 2).

The defendant has admitted in its statement of position to the Commission that Mr. Hanson was told by Mr. Fitzpatrick that in order to remain employed he had to obtain a social security number. (Defendant's statement of position to the EEOC, including affidavit of Mr. Fitzpatrick, attached as Exhibit 5). When Mr. Hanson indicated that he would refuse to comply with this requirement he was discharged by the defendant. There is also no dispute that Mr. Hanson notified the defendant of his religious conviction against

obtaining a social security number. Mr. Fitzpatrick stated in his affidavit that Mr. Hanson discussed his religious conviction at the initial employment interview.

B. Mr. Hanson's religious belief conflicted with defendant's employment requirement that he obtain a social security number to remain employed.

The defendant argues that the requirement that Mr. Hanson obtain a social security number is not the defendant's employment requirement but a requirement of the Internal Revenue Service (IRS). However, the defendant, not the IRS, made the decision that Mr. Hanson's employment depended on his agreement to obtain a social security number. The IRS did not make the decision to terminate Mr. Hanson's employment because he did not have a social security number. The decision that Mr. Hanson must obtain a social security number to remain employed was made solely by the defendant.

C. The defendant failed to reasonably accommodate Mr. Hanson's religious belief.

As outlined above the Commission can establish a prima facie case of religious discrimination by the defendant against Mr. Hanson. The burden then shifts to the defendant to show that it was unable to reasonably accommodate Mr. Hanson's religious belief without undue hardship. Turpen v. Missouri-Kansas-Texas R. Co., 736 F.2d 1022 (5th Cir. 1984). The real dispute between the Commission and the defendant is the duty of the defendant to reasonably accommodate Mr. Hanson. The defendant does not dispute that it did not attempt to accommodate Mr. Hanson. Rather, the defendant contends that it could not accommodate Mr. Hanson without

suffering penalties by the IRS and therefore it would suffer undue hardship. However, the applicable Internal Revenue Code provisions and IRS regulations do not support the defendant's contention.

Indeed, the Internal Revenue Code and the regulations promulgated pursuant to the code do not contain an absolute requirement that an employer provide an employee social security number to the IRS. Internal Revenue Code Section 6109(a)(3) states:

Any person required under the authority of this title to make a return, statement or other document with respect to another person, shall request from such other person, and shall include in any return statement, or document, such identifying number as may be prescribed for securing proper identification of such other person.

26 U.S.C. § 6109(a)(3) (Supp. 1992).

The IRS regulation interpreting Section 6109 provides:

If he does not know the taxpayer identifying number of the other person, he shall request such number of the other person. A request should state that the identifying number is required to be furnished under the authority of law. When the person filing the return, statement, or other document does not know the number of the other person, and has complied with the request provision of this paragraph, he shall sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service so stating. (emphasis added)

Treas. Reg. § 301.6109-1(c) (1991).

The applicable IRS statute and regulation place a duty on the employer to request a taxpayer identifying number from the employee. If a document must be filed and the employer has been

unable to obtain the number but has made the request then the employer need only include an affidavit stating that the request was made.

In August 1989, Internal Revenue Code Section 6676, 26 U.S.C. § 6676 (1989), set forth the penalties for failing to supply the IRS with identifying numbers as required by the code. This section states that a \$50.00 penalty will be imposed for failure of a employer to provide an identifying number on any document filed with the IRS unless it is shown that the failure is due to reasonable cause and not willful neglect. The Treasury Regulation interpreting the statute states:

Under Section 301.6109-1(c) a payor is required to request the identifying number of the payee. If after such a request has been made, the payee does not furnish the payor with his identifying number, the penalty will not be assessed against the payor. (emphasis added)

Treas. Reg. § 310.6676-1 (1989).

Thus, based upon the IRS regulations in effect in August 1989, the defendant only had to request the identifying number from Mr. Hanson and then when the number was not provided, provide an affidavit stating that the number had been requested. The defendant could have accommodated Mr. Hanson by filing an affidavit with the IRS stating that a request for a social security number had been made. Once such an affidavit was filed no penalty could be assessed against the defendant. The defendant cannot argue that filing an affidavit would create undue hardship on its business. See Trans World Airlines v. Hardison, 432 U.S. 63 (1977) (employer

must show that an accommodation would require the employer to incur greater than a de minimis cost or impose greater than a de minimis imposition to establish undue hardship).

The Omnibus Budget Restoration Act, Public Law 101-239, Title VII, Section 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393, repealed Section 6676 of the Internal Revenue Code effective for statements or documents filed after December 31, 1989. Since December 31, 1989, Section 6723 of the Internal Revenue Code, 26 U.S.C. § 6723 (Supp. 1992) has governed the failure to comply with information reporting requirements. Section 6723 states that a penalty of \$50.00 shall be assessed for each failure to comply with a reporting requirement. However, Internal Revenue Code Section 6724, 26 U.S.C. § 6724 (Supp. 1992), provides for a waiver of any penalties assessed under the code upon a showing of reasonable cause. Section 6724(a) provides:

No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not willful neglect.

26 U.S.C. § 6724(a) (Supp. 1992).

While no court has ruled that a religious conviction is reasonable cause, the focus in this case is on the action of the employer in determining whether any penalty would be assessed. Unless the employer willfully fails to obtain the taxpayer identification number any penalty should be waived. The key fact in determining whether the defendant violated Title VII, however,

is that the defendant made no attempt to accommodate Mr. Hanson by seeking a waiver of any penalty for reasonable cause.

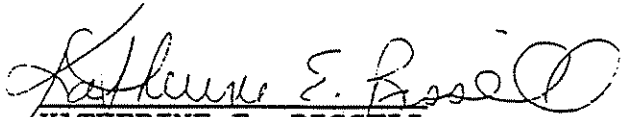
The defendant's contention that it could be subjected to penalties under the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324 (Supp. 1992), is also meritless. The Immigration Reform and Control Act of 1986 was enacted to make the employment of illegal aliens unlawful. 8 U.S.C. § 1324a(a) (Supp. 1992). The law requires a verification system under which an employer must attest, under penalty of perjury, that it has verified that each employee is not an unauthorized alien by examining the requisite document or documents, showing identity and employment authorization. 8 U.S.C. § 1324a(b) (Supp. 1992). The law lists a number of documents which can be used to verify identity and employment authorization. A social security card is one document which evidences employment authorization, but it is not required. A birth certificate showing birth in the United States is another example of a document which evidences employment authorization. 8 U.S.C. § 1324a(b)(1)(C) (Supp. 1992). The case cited by the defendant for the proposition that it would be violating the Immigration Reform and Control Act of 1986 for not including a social security number on Mr. Hanson's I-9 form, Mester Mfg. Co. v. INS, 879 F.2d 561 (9th Cir. 1989), involves an employer who continued to employ an individual after being advised by the INS that the individual was an unauthorized alien. The case does not support the defendant's contention that the Act requires it to furnish a social security number for Mr. Hanson.

IV. CONCLUSION

The Commission's complaint filed herein gave the defendant sufficient notice, pursuant to Rule 8 of the Federal Rules of Civil Procedure, of the EEOC's claim of religious discrimination under Title VII. The Commission can establish a prima facie case of religious discrimination under Title VII. Mr. Hanson has a bona fide religious belief that conflicted with the defendant's requirement that he provide the defendant with a social security number to remain employed. The defendant was aware of Mr. Hanson's religious belief and failed to reasonably accommodate his belief. The Commission has stated a claim upon which relief can be granted and the Defendant's Motion to Dismiss should be denied.

Respectfully submitted

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Connecticut State Bar No. 301166


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EQUAL EMPLOYMENT OPPORTUNITY
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(214) 767-7948

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of the foregoing Plaintiff's Response to Defendant's Motion to Dismiss was served on all counsel of record by U.S. Certified Mail, Return Receipt Requested, on the 1st day of April, 1994 to:

Michele Baird
Gardere & Wynne
3000 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201

Katherine E. Bissell
Katherine E. Bissell



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
DALLAS DISTRICT OFFICE
8303 ELMBROOK DRIVE
DALLAS, TEXAS 75247

AREA CODE 214
COM: 214-767-7015
FTS: 729-7015

CHARGE NUMBER: 310 89 2438

Mr. Bruce Hanson
33 Wildwood Drive
Flower Mound, Texas 75028

CHARGING PARTY

Information Systems Consulting
(Division of Diversified Human
Resources Group)
5001 Spring Valley Road
Dallas, Texas 75244-3910

RESPONDENT

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue, on behalf of the Commission, the following determination as to the merits of the subject charge.

Respondent is an employer within the meaning of Title VII and the timeliness and all other jurisdictional requirements for coverage have been met.

Charging Party alleges that the Respondent discharged him and refused to accommodate his religion, Christian Fundamentalist, in violation of Title VII of the Civil Rights Act of 1964, as amended.

The Charging Party was hired for a Computer Programmer position. During his interview for the position, he informed Respondent's official that he had no Social Security number and that his religious beliefs prevented him from obtaining or using one. He submitted documentation concerning the "exemption" from the use of a Social Security number. After the Charging Party began work the Respondent allegedly had discussions with the Internal Revenue Service and determined that unless the Charging Party had a Social Security number, the Respondent would be in violation of Internal Revenue Regulations and subject to various penalties. The Charging Party was notified that unless he obtained a Social Security number, he would be discharged. The Charging Party refused and was discharged as a result.

The Respondent alleges that it was unable to accommodate the Charging Party's religious beliefs without undue hardship. It alleges that pursuant to the Internal Revenue Code Section 6676, it will be subject to a \$50.00 fine each time it provides documents to the Internal Revenue Service that omit the Charging Party's

LETTER OF DETERMINATION
EEOC CHARGE NUMBER 310 89 2438
PAGE NUMBER 2

Social Security number. Its only attempt at accommodation occurred two months after the Charging Party's discharge. The Respondent at that time offered to accept a Taxpayer Identification number in lieu of a Social Security number. This was unacceptable to the Charging Party, as his beliefs do not allow him to obtain such a number.

The evidence shows that the Respondent's position is unsupported by the law as it existed at the time of the Charging Party's discharge, and as it exists now, following the passage of the Omnibus Budget Restoration Act (Public Law 101-239) on December 19, 1989.

Internal Revenue Code Section 310.6676-1, which was in effect at the time of the Charging Party's discharge, states, "Under Section 301.6109-1(c) a payer is required to request the identifying number of the payee. If after such a request has been made, the payee does not furnish the payer with his identifying number, the penalty will not be assessed against the payer." (emphasis added) Therefore, under the law as it existed on the day that the Charging Party was discharged, the Respondent could have accommodated the Charging Party without undue hardship. All that was necessary was that it request a number and so notify the Internal Revenue Service by affidavit, that it had.

The Omnibus Budget Restoration Act (Public Law 101-239) provides that "No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect." The temporary regulations make clear that under the present law, if an employer requests an identifying number and so notifies the Internal Revenue Service, by affidavit, it will not be subject to any penalties for failure to report an identifying number.

The evidence supports the charge that there is a violation of Title VII of the 1964 Civil Rights Act, as amended, because of the Charging Party's religious beliefs, Christian Fundamentalist.

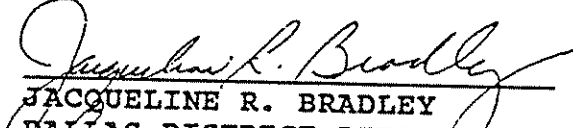
Section 706(b) of Title VII requires that if the Commission determines there is reasonable cause to believe that the charge is true, it shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Having determined there is reasonable cause to believe the charge is true, the Commission now invites the parties to join with it in a collective effort toward a just resolution of this matter. A representative of this office will be in contact with each party in the near future to begin the conciliation process.

LETTER OF DETERMINATION
EEOC CHARGE NUMBER 310 89 2438
PAGE NUMBER 3

Disclosure of information obtained by the Commission during the conciliation process will be made in accordance with 706(b) of Title VII and 1601.26 of the Commission's Procedural Regulations. If the Respondent declines to enter into settlement discussions, or if the Commission's representative for any other reason is unable to secure a settlement acceptable to the Commission, the Director shall so inform the parties in writing and advise them of the court enforcement procedures available to the Charging Party and the Commission.

ON BEHALF OF THE COMMISSION:

May 2, 1990
DATE ..


JACQUELINE R. BRADLEY
DALLAS DISTRICT DIRECTOR



Taco Bell Corp.
17901 Von Karman
Irvine, California 92714-6212
Telephone 714 863 4500

August 23, 1993

BY OVERNIGHT COURIER

Mr. Arthur Thomas
5134 Sugar Camp Road
Milford, Ohio 45150

Re: Settlement and Release of Claims

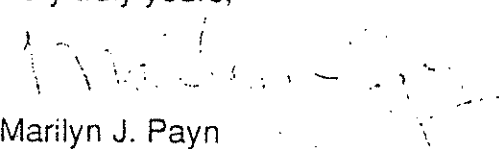
Dear Mr. Thomas:

Attached is the settlement agreement with respect to your son's application for employment at Taco Bell.

You have now indicated that Arthur may not wish to accept the Crew member position for which he made application, because of the onset of the new school year. Taco Bell is still willing to enter into this agreement at the present time, and will consider Arthur for employment next summer if a position is available. If Arthur does decide to apply again next summer, please have him present a copy of this letter to the restaurant manager, which will serve as notice to the manager that Arthur is not required to provide the Company with a Social Security number. The manager is also hereby notified that he/she must supply the Corporate office with an affidavit that your son has declined to provide a social security number based upon his religious beliefs.

Please have Arthur sign the settlement agreement in front of a notary public. You will need to sign as well, since Arthur is a minor. I have enclosed a return envelope for your convenience. We will send Arthur a check for \$500.00 (less the applicable federal and state income taxes) within ten days of receiving the signed agreement. As I conveyed to you earlier, there will be no deduction for Social Security benefits.

Very truly yours,


Marilyn J. Payn
EEO Paralegal

*This was later waived.
See copy of check for full
amount. - next page.*

Enclosure
cc: R. Klein
Manager; EEO & Compliance



Taco Bell Corp.
17701 Van Kesteren
Van Nuys, California 91411-0210
Telephone: (818) 705-4000

August 23, 1993

BY OVERNIGHT COURIER

Mr. Arthur F. Thomas
5134 Sugar Camp Road
Milford, Ohio 45150

Re: Settlement and Release of Claims

Dear Mr. Thomas:

This letter will confirm the arrangements we have made concerning your employment at Taco Bell Corp. ("Taco Bell"), and the final and complete resolution of any claims you may have against Taco Bell. The terms set forth in this letter will be referred to as the "Agreement". This Agreement shall become effective after you sign it below. The Agreement constitutes our entire understanding regarding the terms of your application for employment at Taco Bell and resolves all claims which you may have against Taco Bell.

Unconditional Offer of Employment

Taco Bell hereby extends an unconditional offer of employment to you for the position of Crew member at restaurant #3368 (907 State Rt. 28, Milford, Ohio).

Consideration

In exchange for your execution of this Agreement and your agreement to abide by its terms, Taco Bell will compensate you for lost wages in the amount of \$500.00 (five hundred dollars), payable in lump sum, less the applicable federal and state income taxes (but not social security taxes), within ten days of Taco Bell's receipt of this Agreement. If you accept the offer of employment, Taco Bell also agrees to pay the \$50.00 penalty if it is imposed by the Internal Revenue Service as a consequence of your refusal to provide the Company with a Social Security number.

Indemnity

You agree that you will not file any claims, lawsuits, or charges against Taco Bell, PepsiCo, or their affiliated companies about anything which has

occurred up to and including the date you execute this agreement, and will indemnify and hold Taco Bell harmless from any loss, cost, damage or expense (including attorneys' fees) incurred by Taco Bell arising out of your breach of any portion of this Agreement.

Release

In consideration of the benefits set forth in this letter that Taco Bell agrees to provide you, the sufficiency of which you hereby acknowledge, you agree to relieve and discharge Taco Bell, PepsiCo, their affiliated corporations, benefit plans and programs, and all of their officers, agents, administrators, directors and employees from any and all claims, losses or expenses you may have or have had, or may later claim to have had against them for personal injuries, back pay, losses or damage to you or your property or any other losses or expenses of any kind resulting from anything which has occurred up to the date you execute this Agreement including, but not limited to, your application for employment at Taco Bell. You understand that by signing this Agreement and accepting these benefits, you are waiving any right to pursue any claim against Taco Bell or its affiliated companies in any court of competent jurisdiction or before any state, federal or other governmental agency, including, for example, the Ohio Civil Rights Commission, the Equal Employment Opportunity Commission or the Department of Labor, for back pay, severance pay, liquidated damages, losses or other damages to you or your property resulting from any claimed violation of state or federal or other law, including, for example (but not limited to), claims arising under Title VII of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, sex, national origin or religion), and claims under the Age Discrimination in Employment Act of 1967 (prohibiting discrimination on account of age) and claims under any federal, state or local law pertaining to these benefits and any and all common law claims which may have arisen during your employment with Taco Bell prior to your execution of this Agreement. **This Agreement, does not, however, waive rights or claims that may arise after the date you sign it below.**

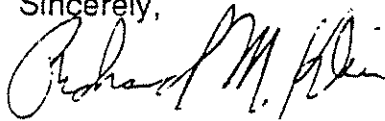
Acceptance Period

Because the arrangements discussed in this Agreement affect important rights and obligations, you have ten (10) days from the date you receive this letter within which to consider whether you wish to accept this offer. If you decide to accept the benefits offered herein, you must sign this Agreement on or before the expiration of the 10-day period and should deliver the Agreement to me within one (1) day after you have signed it. If you do not wish to accept this offer, you do not have to do anything.

Acknowledgment

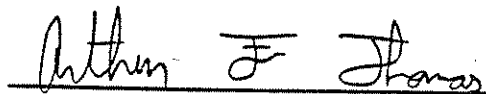
We would appreciate your indicating your understanding and acceptance of this Agreement by signing below. Your signature will signify your acknowledgment and agreement that you have had at least ten (10) days to review this Agreement and to consult with a counselor or other persons of your choosing about its terms, that you fully understand this Agreement, that you were not coerced into signing it, and that you signed it knowingly and voluntarily because it is satisfactory to you. You also acknowledge that you have not received any promise or inducement to sign this Agreement that is not expressly set forth in the terms of this letter.

Sincerely,



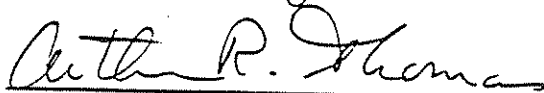
Richard Klein
Manager, EEO & Compliance

Agreed to and accepted as of
the 25 day of AUGUST, 1993.



Arthur F. Thomas

Agreed to and accepted as of
the 25 day of August, 1993.



Arthur R. Thomas, as parent and
guardian for Arthur F. Thomas

Signed and subscribed before me
this 25 day of August, 1993.



Notary Public/

My commission expires:

CAROL A. SCHAICH
Notary Public, State of Ohio
My Commission Expires Dec. 17, 1995

Internal Revenue Service
Attention CC: CORP: T
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

July 30, 1993

Dear Sir:

I am writing on behalf of Taco Bell Corporation. Would you please send a policy letter to Taco Bell with a copy to me, explaining the policy of waiver of penalty provided by 26 USC § 6724(a) pursuant to circumstances as provided for in USC § 6109(a)(3), 26 USC § 6721(a)(2)(B) and § 6721(c)(1)(B)?

In the way of explanation, the circumstances are as follows. Taco Bell is attempting to hire a young man who does not have a Social Security Number, does not believe in Social Insurance on religious grounds, will not permit anyone to make application for a number on his behalf, and does not believe in being numbered by TIN of any sort, as he believes the Bible teaches "Israel is not to be numbered". Taco Bell wishes to accommodate the youth's religious beliefs but does not want to incur a penalty for failure to provide the IRS with a SSN or TIN number on his W2 return.

Taco Bell is of the understanding that 26 USC § 6109(a)(3) requires the employer to REQUEST the number from the employee. If the employee refuses to provide a number, regardless of the reason, then a penalty is normally imposed on the employer pursuant to 26 USC § 6721(a)(2)(B). However, the provisions of 26 USC § 6721(c)(1)(B) applies because the penalty provided in § 6721(a) is only \$50.00, which is a "de-minimis failure" and it would only amount to one return for one employee a year, probably for just one or two summers, until the youth went to college. In addition, the employer, Taco Bell, is able to provide an affidavit to the IRS that it requested the SSN and thus made a good faith effort to obtain the number and so the failure to obtain it was due to "reasonable cause" (religious reasons) and not for any wilfull neglect by the employer. The proposed penalty should thus be waived pursuant to 26 USC § 6724(a).

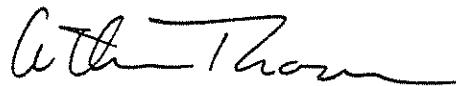
If you would please send me a general information letter, or policy-letter, explaining that the penalties will be waived if the SSN or TIN number is not on the W2 pursuant to the above IRC provisions, for reasonable cause, then Taco Bell will be able to hire the youth and avoid any possible hiring discrimination based upon his religious beliefs.

Please address the letter to :

Marilyn J. Payn
EEO Paralegal
Taco Bell Corp.
17901 Von Karman
Irvine, California 92714

And send an information copy to me at this address:

Sincerely,



Arthur Thomas
C/O 5134 Sugar Camp Rd., non-domestic
Milford, Ohio State Republic (45150 TDC)

In '58, P.L. 85-866, Sec. 75(a), designated existing provisions as subsec. (b), and added subsec. (a), effective 11/1/58.

Sec. 6106. Repealed.

In '76, P.L. 94-455, Sec. 1202(b)(1), repealed Code Sec. 6106, effective 1/1/77. Prior to repeal, Code Sec. 6106 read as follows:

"**SEC. 6106. PUBLICITY OF UNEMPLOYMENT TAX RETURNS.**
"Returns filed with respect to the tax imposed by chapter 23 shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns described in section 6103, except that paragraph (2) of subsections (a) and (b) of section 6103 and section 7213(a)(2) shall not apply."

Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.

(a) Furnishing copy to taxpayer.

Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

(b) Copy or list to be retained by income tax return preparer.

Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

- (1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and
- (2) make such copy or list available for inspection upon request by the Secretary.

(c) Regulations.

The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be in compliance with the requirements of such subsection by the other persons.

(d) Definitions.

For purposes of this section, the terms "return" and "claim for refund" have the respective meanings given to such terms by section 6696(e), and the term "return period" has the meaning given to such term by section 6060(c).

In '76, P.L. 94-455, Sec. 1203(c), added Code Sec. 6107, for documents prepared after '76.

Sec. 6108. Statistical publications and studies.

(a) Publication or other disclosure of statistics of income.

The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

(b) Special statistical studies.

The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section

6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

(c) Anonymous form.

No publication or other disclosure of statistics or of information required or authorized by subsection (a) special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

In '76, P.L. 94-455, Sec. 1202(b), amended Code Sec. 6108, effective 1/1/77. Prior to amendment, Code Sec. 6108 read as follows:

"SEC. 6108. PUBLICATION OF STATISTICS OF INCOME.

"The Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable."

Sec. 6109. Identifying numbers.

(a) Supplying of identifying numbers.

When required by regulations prescribed by the Secretary:

- (1) Inclusion in returns. Any person required under the authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.
- (2) Furnishing number to other persons. Any person with respect to whom a return, statement, or other document is required under the authority of this title to be made by another person or whose identifying number is required to be shown on a return of another person shall furnish to such other person such identifying number as may be prescribed for securing proper identification.
- (3) Furnishing number of another person. Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.
- (4) Furnishing identifying number of income tax return preparer. Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms "return" and "claim for refund" have the respective meanings given to such terms by section 6696(e).

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual's social security account number.

(b) Limitation.

- (1) Except as provided in paragraph (2), a return of any person with respect to his liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.
- (2) For purposes of paragraphs (2) and (3) of subsection

Penalties

Penalties

USCS Code Sec. 672:

Sec. 6721. Failure to file correct information returns.

(a) Imposition of penalty.

(1) In general. In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$50 for each return with respect to which such failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$250,000.

(2) Failures subject to penalty. For purposes of paragraph (1), the failures described in this paragraph are—

- (A) any failure to file an information return with the Secretary on or before the required filing date, and
- (B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period.

(1) Correction within 30 days. If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

- (A) the penalty imposed by subsection (a) shall be \$15 in lieu of \$50, and
- (B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$75,000.

(2) Failures corrected on or before August 1. If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

- (A) the penalty imposed by subsection (a) shall be \$30 in lieu of \$50, and
- (B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$150,000.

(c) Exception for de minimis failures to include all required information.

(1) In general. If—

- (A) an information return is filed with the Secretary,
- (B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such return, and
- (C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation. The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

- (A) 10, or
- (B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000.

(1) In general. If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

- (A) subsection (a)(1) shall be applied by substituting "\$100,000" for "\$250,000",
- (B) subsection (b)(1)(B) shall be applied by substituting "\$25,000" for "\$75,000", and
- (C) subsection (b)(2)(B) shall be applied by substituting "\$50,000" for "\$150,000".

(2) Gross receipts test.

6/86, unless such acquisition is pursuant to a binding contract which was in effect on 5/6/86, and at all times thereafter.

Prior to amendment clauses (d)(1)(B)(vii)-(xi) read as follows:

"(vii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(xi) [sic (x)] section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

—P.L. 101-239, Sec. 7813(a), redesignated subpara. (d)(12)(U) as (d)(2)(S), deleted "or" at the end of subpara. (d)(2)(Q) and substituted "or" for the period at the end of subpara. (d)(2)(R), effective 1/1/89.

In '88, P.L. 100-647, Sec. 1006(h)(3)(A), deleted "or" from clause (d)(1)(B) (ix [sic viii]); substituted "or" for the period at end of clause (d)(1)(B)(x) [sic (x)], and added new clause (d) (1)(B)(xi) [sic (x)], effective for any acquisition of assets after 5/6/86, unless such acquisition is pursuant to a binding contract which was in effect on 5/6/86, and at all times thereafter.

—P.L. 100-647, Sec. 1015(a), substituted "6031(b) or (c)" for "6031(b)" in subpara. (d)(2)(B) [sic (A)], effective for returns the due date of which (determined without regard to extensions) is after 12/31/86.

—P.L. 100-647, Sec. 3001(b)(1), added new clause (d)(1)(B)(xi) [sic (x)], deleted "or" at end of subpara. (d)(2)(S) [sic (Q)]; substituted "or" for the period at end of subpara. (d) (2)(T) [sic (R)], [corrected by P.L. 101-239, Sec. 7813(a), see above], and added new subpara. (U) [sic (S)], effective 1/1/89. Sec. 3001(c)(2) of this Act provides:

"(2) Refunds with interest for pre-effective date purchases.—

"(A) In general.—In the case of fuel—

"(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on December 31, 1988,

"(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(1)(2) of the 1986 Code), and

"(iii) with respect to which a claim is not permitted to be filed for any quarter under section 6427(i) of the 1986 Code, the Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(1) (3) of the 1986 Code) if claim therefor is filed not later than June 30, 1989. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(1) of the 1986 Code.

"(B) Interest.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

"(C) Registration procedures required to be specified.—Not later than the 30th day after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section)."

In '88, P.L. 100-418, Sec. 1941(b)(2)(M)(i), deleted clause (d) (1)(B)(i) and redesignated clauses (d)(1)(B)(ii)-(x) as clauses (d) (1)(B)(i)-(ix) . . . Sec. 1941(b)(2)(M)(ii), deleted subparas. (d) (2)(A) and (d)(2)(K) and redesignated subparas. (d)(2)(B)-(T) as subparas. (d)(2)(A)-(R), effective for crude oil removed from the premises on or after 8/23/88. Prior to deletion clause (d) (1)(B)(i) read as follows:

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil)."

Prior to deletion subpara. (d)(2)(A) read as follows:

"(A) section 4997(a) (relating to records and information; regulations). Prior to deletion subpara. (d)(2)(K) read as follows:

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil)."

In '86, P.L. 99-514, Sec. 1501, added Code Sec. 6724, part of Part II of Subchapter B of Chapter 68, effective for returns the due date of which (determined without regard to extensions) is after 12/31/86.

(A) In general. A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed \$5,000,000.

Certain rules made applicable. For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(e) **Penalty in case of intentional disregard.**

If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

(1) subsections (b), (c), and (d) shall not apply,

(2) the penalty imposed under subsection (a) shall be \$100, or, if greater—

(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly,

(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, or

(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

(i) \$25,000, or

(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed \$100,000, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the \$250,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

In '90, P.L. 101-508, Sec. 11318(b)(1), inserted "6050I" after "6050H" in subpara. (e)(2)(A). Sec. 11318(b)(2), deleted "or" at the end of subpara. (e)(2)(A). Sec. 11318(b)(3), substituted "or" for "and" at the end of subpara. (e)(2)(B). Sec. 11318(b)(4), added subpara. (e)(2)(C), effective for amounts received after 11/3/90.

In '89, P.L. 101-239, Sec. 7711(a), amended Code Sec. 6721 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

Sec. 6722. Failure to furnish correct payee statements.

(a) **General rule.**

In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of \$50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000.

(b) **Failures subject to penalty.**

For purposes of subsection (a), the failures described in this subsection are—

- (1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and
- (2) any failure to include all of the information re-

quired to be shown on a payee statement or the inclusion of incorrect information.

(c) **Penalty in case of intentional disregard.**

If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

(1) the penalty imposed under subsection (a) shall be \$100, or, if greater—

(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

(2) in the case of any penalty determined under paragraph (1)—

(A) the \$100,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

In '89, P.L. 101-239, Sec. 7711(a), amended Code Sec. 6722 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

Sec. 6723. Failure to comply with other information reporting requirements.

In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of \$50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000.

In '89, P.L. 101-239, Sec. 7711(a), amended Code Sec. 6723 as part of the amendments to part II of subchapter B of chapter 68, effective for returns and statements the due date for which (determined without regard to extensions) is after 12/31/89.

Sec. 6724. Waiver; definitions and special rules.

(a) **Reasonable cause waiver.**

No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(b) **Payment of penalty.**

Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

(c) **Special rule for failure to meet magnetic media requirements.**

No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns.

(d) **Definitions.**

For purposes of this part—

(1) **Information return.** The term "information return" means—

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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Ms. Marilyn J. Payn
EEO Paralegal
Taco Bell Corp.
17901 Von Karman
Irvine, CA 92714

Person to Contact:
Melvin R. Shields

Telephone Number:
(202) 927-6606

Refer Reply to:
T:T:Q:X:MS 30701

Date: AUG 31 1993

Dear Ms. Payn:

This is in response to a July 30, 1993, letter from Mr. Arthur Thomas requesting a general information letter or policy letter explaining that the penalties will be waived if there is reasonable cause for not providing an SSN or a TIN on his Form W-2.

Such matters are under the jurisdiction of the appropriate service center where the return was filed or district director of internal revenue for the district in which the taxpayer lives.

So that this inquiry may receive appropriate attention, we are transferring it to the Service Center Director, 5045 E. Butler Avenue, Fresno, CA 93888.

Sincerely,

Fred Apelquist, Acting Chief
Quality Improvement Systems Branch

cc: Arthur Thomas



17901 Von Karman
Irvine, CA 92714-6212

VENDOR NUMBER	CHECK DATE	CHECK NUMBER
#965868	09/09/93	#2987

INVOICE NUMBER	INVOICE DATE	ACCOUNT DESCRIPTION	GROSS AMOUNT	NET AMOUNT
00700139080				\$500.00

THIS CHECK IS TENDERED IN PAYMENT OF ITEMS LISTED ABOVE

TOTAL GROSS AMOUNT	TOTAL DISCOUNT AMOUNT	TOTAL NET AMOUNT
		\$500.00

PLEASE DETACH THIS STATEMENT BEFORE DEPOSITING CHECK



Taco Bell Corp.
17901 Von Karman
Irvine, CA 92714-6212

Manufacturers Hanover Bank (Delaware)
Wilmington, Delaware 19801

62-26
311

CONTROL NUMBER

2987

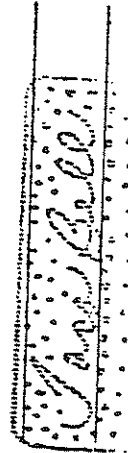
VENDOR NUMBER	CHECK DATE	CHECK NUMBER
#965868	09/09/93	#2987

FIVE HUNDRED DOLLARS AND 00/CENTS ***** VOID 90 DAYS FROM DATE OF ISSUE *****

PAY
TO THE
ORDER OF

ARTHUR THOMAS
5134 SUGAR CAMP ROAD
MILFORD, OHIO 45150

TOTAL AMOUNT
*****\$500.00*****



⑈002987⑈ ⑆031100267⑆ 6301420646 509⑈