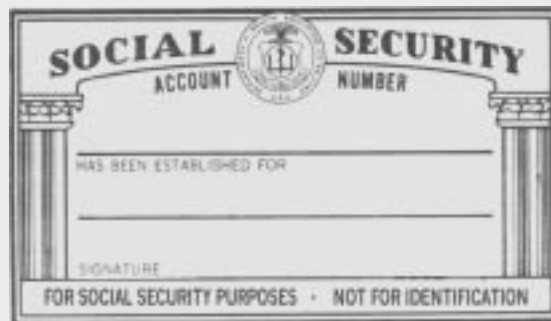


**Social Security Number
Not Required**

Policy Manual



**For living without a
Social Security Number**

and

**For dealing with
people, customers and employees
who do not use
Social Security Numbers**

Second Edition

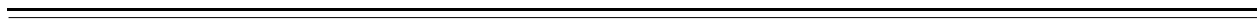


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Preface

Most Americans' are so accustom to the social security number that they simply assume that having a social security number is a legal requirement to being American. At every turn American's are challenged to provide a social security number. You need a social security number for school, insurance, employment, banking, credit and a driver's license; even your dentist or doctor is likely to ask you for a social security number. Yet millions of natural born Americans do not have social security numbers. They do not have a social security number because they don't want one and, to the surprise of most Americans' ... they are not required to have one!

According to the Social Security Administration there is no law requiring a person to have a social security number to live and work in the United States, nor is there any law requiring a person to have a social security number simply for the purpose of having one. The simple fact is that there is no law requiring anybody to obtain, have or use a social security number. There are, however, many laws defining the use and application of social security numbers when a person chooses to use one. There are also several laws that protect people against discrimination when they choose not to use a social security number.

The incorrect assumption by most Americans that there must be a law requiring them to have a social security number has lead to many misunderstandings and in many cases lost opportunities. Many bankers have unnecessarily turned away good potential customers and many employers have turned away excellent workers because their policy improperly discriminates against unenumerated individuals. Too often this discrimination has lead to unnecessary litigation and additional losses to the businesses.

This manual provides information and guidelines for businesses, bankers, employers and individuals for legally and properly dealing with people who choose not to use a social security number. This manual also discusses the legal requirements associated with using social security numbers and many of the forms that request a number.

What You Will Learn

While reading this manual, you will learn the answers to the following issues:

- How has tens-of-thousands of Americans quit Social Security and stopped paying social security taxes?
- Does the law require an employee to have a social security number?
- Does the law require an employer to sign an I.R.S Form W-4, *Employee Withholding Allowance Certificate*?
- Does the law require an American to get a social security number?
- Does the law require an American to obtain a social security number for their child?
- Is it possible to vote, open a bank account, drive a car, buy and sell property, ect., without a social security number?

What Does That Mean

Are You Really Required to have Telephone Number?

Based upon the following review of several federal laws we might conclude that most Americans are required, by law, to have a telephone number.

29 USC §213 requires that employers and employees “**shall provide** the name, **telephone number**, and address of the employer and the name, **telephone number**, and address of the employee.”

As a passenger on any commercial airline, Federal law 49 USC 44909 requires that the “passenger manifest **shall include** ... the name and **telephone number of a contact** for each passenger.”

USC §1603 requires that individual who register as lobbyists “shall contain the name, address, business **telephone number**.”

42 USC §666 states that “each party to any paternity or child support proceeding is **required** to include social security number, residential and mailing addresses, **telephone number**, **driver's license number**, and name, address, and **telephone number of employer**;

11 USC Rules Form 1 “**requires** a debtor not represented by an attorney to provide a **telephone number**.”

26 USC Rule 24 states that any person who wishes to represent himself without counsel “**shall state**, in the initial pleading ... such person's name, address, and **telephone number**.”

USC §104A states that the owner of a copyright who files a Notice of Intent to Enforce a Restored Copyright “**shall include** an address and **telephone number** at which the owner may be contacted.”

28 USC Rule 26 states that each witness at a Pretrial Disclosure “**shall provide** to other parties the name, address and **telephone number** of each witness,”

26 USC Rule 241 states that the petitioner for an action for readjustment of partnership “**shall contain** the signature, mailing address, and **telephone number** of each petitioner.”

26 USC Rule 34 states that the petitioner for an action for deficiency or liability actions: The petition in a deficiency or liability action “**shall contain** the signature, mailing address, and **telephone number** of each petitioner”

26 USC Rule 291 states that the petitioner for an action for redetermination of employment status “**shall contain** the signature, mailing address, and **telephone number** of each petitioner”

26 USC Rule 281 states that the petitioner for an action for review of failure to abate interest “**shall contain** the **telephone number** of each petitioner”

26 USC Rule 271 states that the petitioner for an action for administrative “**shall contain** the signature, mailing address, and **telephone number** of each or each petitioner's counsel.”

26 USC Rule 221 states that petitioner for a disclosure action “**shall include** the **telephone number** of the petitioner or the petitioner's counsel.”

26 USC §6104 states that certain exempt organizations “**shall state** the address and the **telephone number** of the private foundation's principal office and the name of its principal manager.”

Therefore, based upon that review, and the understanding that the word *shall* is generally the same thing as an imperative or mandatory requirement having somewhat the same meaning as the word *must*, then phrases such as, *shall provide*, *shall include*, *shall contain* and *shall state* makes it pretty obvious that the individual affected by these laws *must have* a telephone number.

29 USC §213 requires all employers and employees to have a telephone number.

49 USC §44909 requires passengers on a commercial flight to have friends who have telephone numbers.

42 USC §666 requires everybody to have a telephone number ... (Okay, I admit this might be stretching things here ... but no, because this is the same law that the States are claiming requires them to demand your social security number when getting a driver's license.)

26 USC §24 requires that anyone representing themselves in tax court must have a telephone number.

17 USC §104A prohibits you from restoring your copyright without a telephone number.

28 USC Rule 26 prohibits you from being a witness if you don't have a telephone number.

26 USC Rule 241 requires individuals to have a telephone number before they can enter into a partnership.

So, certainly based upon this understanding of the law, we should logically conclude that individuals who wish to become employers, employees, friends of airline passengers, or everybody (because men and women could possibly become involved in a paternity suit) is required to obtain, have and use their telephone number ... Either that, or we need to reevaluate the legal meaning of the word *shall*.

A Brief Glossary

Weasel-word – a word that has the appearance and *feel* of meaning one thing while actually meaning something entirely different.

The Meaning of the Word “shall”

Black's Law Dictionary defines the meaning of the word *shall* as:

Shall. As used in statutes, contracts, or the like, this word is generally imperative or mandatory. ... The word in ordinary usage means “must” and is inconsistent with a concept of discretion. ... But it may be construed as merely permissive or directory (as equivalent to “may”) ...

The word *shall* is a key word in many statutes, leading many readers to assume that it has a similar meaning to the word *must*. However, based upon the above “telephone logic,” most of you are probably thinking that the word *shall* might actually be similar to the word *may* or the word *should*. When we examine the following five court rulings, we begin to understand that it really does mean *may* in most cases:

The word “shall” in a statute may be construed to mean “may” particularly on the order to avoid constitutional doubt. *Fort Howard Paper Co. v. Fox River Heights Sanitary District*, 26 NW 2nd 661.

If necessary, to avoid unconstitutionality of a statute, “shall” will be deemed equivalent to “may”. *Gow v. Consolidated Coppermines Corporation*, 165 AT. 136.

“Shall” in a statute may be construed to mean “may” to avoid constitutional doubt. *George Williams College v. Village of Williams Bay*, 7 NW2nd 891.

As against the government, the word “shall” when used in statutes is to be construed as “may”, unless a contrary intention is manifest. *Cairo and Fulton R.R. Co. v. Hecht*, 95 US. 168.

The word “shall” in a statute may be construed as “may” where the connection in which it is used or the relation to which it is put with other parts of the same statute indicates that the legislature intended that it should receive such construction. *Ballou v. Kemp*, 92 F. 2nd 556.

It is the opinion of the courts that if a statute specifies that a certain act *shall* be done, and there is a question about whether or not it would be constitutional for the act to be mandatory, then the word *shall* takes on the permissive meaning rather than the mandatory one.

The First Amendment of the Constitution of the United States protects the freedom of speech and of the press. You should understand that the freedom to speak, also involves the freedom not to speak. If you do not have the right not to speak, (i.e., – if the government could compel you to speak) then you have no freedom of speech. Since this might extends to printed and written materials, you have a First Amendment Right not to fill out government forms and not to give the government information.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Fourth Amendment of the Constitution of the United States protects your privacy. You have a Fourth Amendment protected Right to keep your personal financial affairs private, and not to voluntarily give that information to the government. The Fourth Amendment provides that if the government wants to examine your books and records, a court order must be obtained.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fifth Amendment of the Constitution of the United States protects you as well, stating:

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The fifth amendment seems to apply only to criminal matters, but the Supreme Court ruled in *McCarthy v. Arndstein*, 266 US. 34, that the fifth amendment “applies alike to criminal and civil proceedings.” Similar rulings have stated:

“There can be no question that one who files a return under oath is a witness within the meaning of the Amendment. *Sullivan v. United States* 15 F. 2nd 809, and

“The information revealed in the preparation and filing of an income tax return is, for Fifth Amendment analysis, the testimony of a “witness” as that term is used herein.” *Garner v. United States*, 424 us. 648.

Thus, based on the constitutional issues presented above, the word *shall* must have the permissive construction *may*, because the mandatory construction would violate the Constitution; the supreme law of the land.

The effect of the government’s actions has been noted by the Supreme Court:

“Because of what appears to be a lawful command on the surface, many citizens, because of their respect for what only appears to be law, are cunningly coerced into waving their rights due to ignorance” *U.S. v. Minker* 350 US. 179, at 187.

The Meaning of the Word “include”

Another key word in many statutes is the word include. This is another word with a double meaning. The general population uses this word to infer that there is an additional element to our subject matter. For example, the statement “The flight of the chicken includes, among other things a rather haphazard landing” leads you to believe that besides uneventful airtime, and an interesting landing, there is more to the total process of a chicken flying. Our thought process does not exclude other happenings and seeks no closure to the subject.

However, the legal definition of the word *includes* describes the word as one of limitation.

Black’s Law Dictionary defines the meaning of the word *include* as:

Include. To confine within, hold as in an enclosure, take in, attain, shut up, contain, inclose, comprise, comprehend embrace, involve.

The term *include*, *includes*, or *including*, appears in many places within the Code. It is sometimes preceded or followed within a few words by another tricky double-talk word: *shall*.

The Meaning of the Word “fail”

Black’s Law Dictionary defines the meaning of the word *fail* as:

Fail. Fault, negligence, or refusal.

That is, you *fail* to do something because you were lazy and forgot or because you simply refuse. You do not *fail* to do something because it is beyond your control. For example, you cannot *fail* to furnish a telephone number if you don’t have a telephone.

So, What Does it Really Mean?

If the law says that you *shall* furnish your telephone number and you have a telephone number, then you could furnish it. However, there is no expectation for you to furnish your telephone number if you do not have a telephone and you have not *failed* to furnish that which you do not have. If the law says that you *shall include* your name and address, you would not interpret that to also include your telephone number. In the legal sense the list following the word *include* is the entire list of everything included; nothing else can be interpreted to be added to the list.

The legal meaning of words are often given specific meaning within the confines of a title or section within the law, for example:

10 USC Sec. 101

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 1 - DEFINITIONS

Sec. 101. Definitions

(e) Rules of Construction. - In this title -

(1) "shall" is used in an imperative sense;

(2) "may" is used in a permissive sense;

(3) "no person may * * *" means that no person is required, authorized, or permitted to do the act prescribed;

(4) "includes" means "includes but is not limited to"; and

It is also important to read these definitions carefully, because their usage is often more restricted than it first appears. A good example of this is found for the definition for *include* that is provided in the United States tax law in Title 26:

26 USC §7701. Definitions

(c) Includes and including

The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

We see that the word *include* has the intended usage that we expect from our common language. However, notice that this usage is restricted to “when used in a definition.” That is to say that when the word *include* is used only within the contents of a definition for a word

or term, then it has this special meaning; beyond that content – that is, when the word *include* is used in anything else, it has the legal meaning that was defined above.

Pay particular attention to these words as you read the law. Now you should be able to go back and reread the telephone list at the beginning of this section and understand clearly what is being said. As a practice you should do that before proceeding.

Who's Bound by the Law

Many laws restrict or require something of Citizens, but the overwhelming majority of laws and regulations are written for the various government agencies. Citizens never need permission from the law to do a thing. Government agencies, however, must have explicit permission for each thing that they do. A state and federal agency cannot do anything that is not explicitly authorized by law ... to do so is illegal. A government agency violates the law when it does something that the People have not given it permission to do. In America, People have rights, the government has permission.

The History of the Social Security Number

The *Federal Social Security Act* (Pub. Law 74-271, August 14, 1935, 49 Stat. 620; as amended) is codified at 42 U.S.C. §§301-1399. The first mention of the social security number in a law or regulation is a Bureau of Internal Revenue regulation dated November 5, 1936 where an identifying number, called an “account number,” was assigned to employees covered under the Act. T.D. 4704, 1 Fed. Reg. 1741, Nov. 7, 1936; 26 C.F.R. Part 401 (1st ed., 1939). This regulation was issued pursuant to Section 807(b) of the *Social Security Act of 1935* and was not a mandatory requirement but simply a directory.

In the beginning there was little use of the social security number other than being required as an identifier for people receiving benefits under the unemployment compensation programs contained in the Act and administered by the States. Few Americans had been issued numbers by the 1940's because they were not receiving these benefits, and few organizations felt the need for a numeric identifier.

Although today, most people are under the impression that a social security number is required for more than just social security purposes, this is not the case and never has been. This impression came, in part, from the fact that in 1943, the Civil Service Commission decided that there should be a numerical identification system for all Federal employees and proposed to the bureau of the budget that the use of the social security number be authorized for this purpose. This led to the issuance of *Executive Order 9397*, which provides, in part as follows:

WHEREAS certain Federal agencies from time to time require in the administration of their activities a system of numerical identification of accounts of individual persons; and;

WHEREAS it is desirable in the interest of economy and orderly administration that the Federal Government move towards the use of a single, unduplicated numerical identification system of accounts and avoid the unnecessary establishment of additional systems;

NOW, THEREFORE, ... it is hereby ordered as follows:

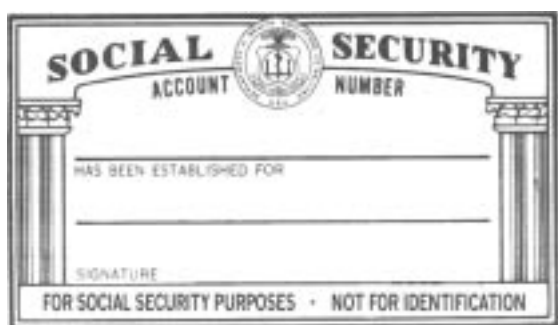
1. Hereafter any Federal department, establishment, or agency shall, whenever the head thereof finds it advisable to establish a new system of permanent account numbers pertaining to individual persons, utilize exclusively the Social Security Act account numbers.

The order directed the Social Security Board (the predecessor agency of the Social Security Administration), to provide for the assignment of an account number to any person required by any Federal agency to have one, and to furnish the number, or the name and identifying data, pertaining to any person or account number upon request of any Federal agency using the social security number for a numerical identification system of accounts under the order.

The issuance of *Executive Order 9397* in 1943, theoretically provided the basis for this change in conception of the role of the social security number. This interpretation was taken from the wording of the order which speaks of the efficiency to be gained from “a single ... system of accounts ...” To interpret the order as applying to all kinds of Federal agency record systems was certainly beyond the meaning of its language.

In 1946 the Social Security Administration, complying with the provisions of the *Administrative Procedures Act of 1946* (Pub. Law 79-404, 60 Stat. 237), required among other things, “uniformity, impartiality and fairness in the procedures employed by federal administrative agencies,” issued and published in the Federal Register its regulations on the issuance and use of social security numbers. 20 C.F.R. § 422.1(ii) published at 11 F.R. 177A-568, September 11, 1946 provides:

- (ii) Any person who wishes to file an application for an account number may do so by filing Form SS-5.



In 1961 the Internal Revenue Service began using the social security number for taxpayer identification by an amendment to the *Internal Revenue Code* (Pub. Law 87-397, 75 Stat. 828, *Internal Revenue Code of 1954*, Sec. 6109), that authorized the Secretary of the Treasury to request that each person making “a return, statement, or other document” under the Internal Revenue Code to “include such identifying number as may be prescribed for securing proper identification of such person.”

In a decision dated April 16, 1964, the Commissioner of Social Security approved the issuance of social security numbers to pupils in the ninth grade and above, if a school requests such issuance and indicates willingness to cooperate in the effort. The Social Security Administration Claims Manual explains that this decision was made to accommodate requests from school systems “desiring to use the social security number for both automatic data processing and control purposes, so that the progress of pupils could be traced throughout their school lives, across district, county, and state lines.” The school enumeration program, however, is entirely voluntary.

In June 1965 the Commissioner of Social Security authorized the issuance of a social security number to every recipient of State old-age assistance benefits who did not already have one, in order to establish a more efficient process for exchange of information between these agencies and the Social Security Administration.

The Congress, in Section 137 of the *Social Security Amendments of 1972* (Pub. Law 92-603, 86 Stat. 1329, 42 U.S.C. § 405(c)(2)(B)(I)(II)), requires the Secretary of the Department of Health, Education and Welfare (the predecessor agency of the Department of Social and Human Services) to take affirmative measures to issue social security numbers “to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are

claimed by another person.” The quoted language of this requirement appears to call for the issuance of a social security number to virtually everyone in America who did not already have one, but the legislative history clearly indicates that such universal enumeration was not intended.

Under the 1972 amendments, all members of Aid for Families with Dependent Children (AFDC) households, including children, are required to furnish their social security number in order to qualify for benefits. See 42 U.S.C. § 602(a)(25) (1976). This statutory scheme has since been amended, although the social security number requirement has been retained in virtually identical form. See *Deficit Reduction Act of 1984*, Pub. Law 98-369, § 2651(a), 98 Stat. 1147. If they do not have a social security number, they must apply for them. See 45 C.F.R. § 232.10(f) (1973). This regulatory requirement was upheld in *Chamber v. Klein*, 419 F. Supp. 569 (D.C.N.J. 1976) which ruled that requiring social security numbers as one condition for receiving aid (AFDC) did not violate any constitutionally protected right to privacy.

In April 1974 it was decided that participating States could enumerate Medicaid recipients in addition to AFDC beneficiaries.

Under the *Tax Reform Act of 1976* (Pub. Law 94-455, 90 Stat. 1520), states are authorized to require social security numbers as identifiers for state programs, including general public assistance. See 42 U.S.C. § 405(c)(2)(C).

In addition, since 1980, social security numbers are an eligibility requirement for many food stamp household members. See 7 U.S.C. § 2025(e).

From this review of the Federal actions (which is far short of an exhaustive list) it is clear that the Federal government itself has been in the forefront of expanding the use of the social security number. But it is also clear that the enumeration of individuals under the *Social Security Act* was intended to be limited to those receiving Federal entitlements. The requirement for and the use of the social security number in connection with these federal and state administered welfare programs enhances the program’s efficiency and helps to reduce the tremendous problems of mispayment of benefits by the agencies involved with the administration of these programs. See *Callahan v. Woods*, 736 F.2d 1269, 1274 (9th Cir. 1984).

With increasing demands being placed on individuals to furnish a social security number in circumstances when use of the number is not required by Federal law or regulation, the Congress in 1974 passed the *Privacy Act of 1974* (Pub. Law 93-579, 88 Stat. 1896; as amended). Section 7 of Pub. Law 93-579 provides:

(a)(1) It shall be unlawful for any Federal, State, or local governmental agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

The relevance of this Act is simply that it highlights the importance of privacy interests associated with social security information. Cf. *Wolman v. United States*, 501 F. SUPP. 310 (D.C.D.C. 1980), remanded 675 F.2d 1341 (D.C. Cir. 1982), vacated on other grounds, 542 F. SUPP. 84 (D.C.D.C. 182) (Section 7 of the *Privacy Act* was intended, the District Court found, to block indiscriminate governmental use of social security information as the

“universal identifier.”) See *United States v. Two Hundred Thousand Dollars in U.S. Currency*, 590 F. SUPP 866 (S.D. Fla. 1984).

The *Privacy Act* makes it unlawful for any person to require an individual to disclose or furnish a social security number for any purpose, unless the disclosure or furnishing the number was specifically required under federal law.

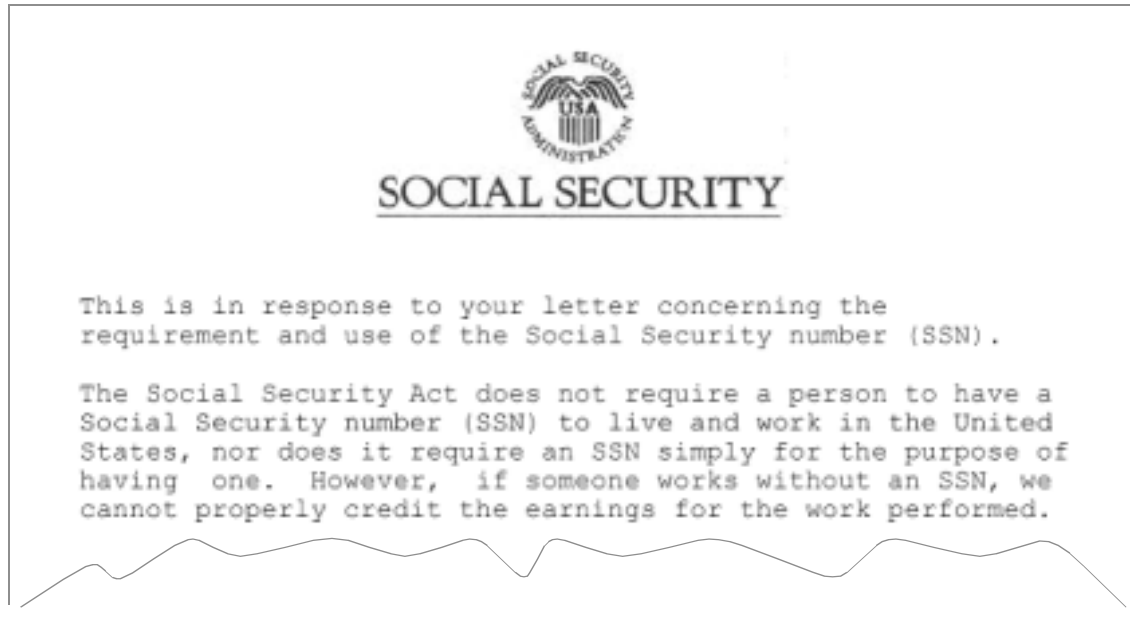
In enacting Section 7, Congress sought to curtail the expanding use of social security numbers by federal and local agencies and, by so doing, to eliminate the threat to individual privacy and confidentiality of information posed by common numerical identifiers. See S. Rep. No. 1183, 93rd Cong., 2nd. Sess., reprinted in [1974] *U.S. Code Cong. & Admin. News*, pp. 6916, 6944. Underlying this legislative effort was the recognition that widespread use of a standard identification number in collecting information could lead to the establishment of a national data bank or similar informational system, which could store data gathered about individuals from many sources and facilitate government surveillance of its citizens. *Id.* at 6944-45, 6957. It was anticipated that as the use of the social security number proliferated, the incentive to consolidate records and to broaden access to them by other agencies of government would, in all likelihood, correspondingly increase. *Id.* at 6945. Thus, Congress saw a need for federal legislation to restore to the individual the option to refuse to disclose his social security number without repercussions, except in specifically delineated circumstances outlined in section 7(a)(2).

Since its passage in 1974, the Federal courts have ruled the *Privacy Act* applies equally to the private sector. Their requests for social security numbers must conform to the disclosure requirements of the *Privacy Act*. *Yeager v. Hackensack Water Co.*, 615 F. SUPP. 1087, (D.C.N.J. 1985).

Since the passage of the *Privacy Act*, a State cannot use the lack of a social security number in any adverse way against anyone, unless required under federal law. A State cannot make something which is voluntary under federal law, mandatory.

The plain language of the *Federal Social Security Act*, its legislative history, regulations, and the relevant decisional precedents makes it clear that there is simply not a requirement that an individual must obtain and disclose a social security number, unless they receive federal welfare benefits and the disclosure of the number is required under applicable federal law.

There is no law requiring a person to obtain, have or use a social security number to live or work in the United States.



Employment Issues

Since federal law does not require any individual to apply for and accept any federal benefits, let's now examine whether (1) federal law requires every employee to have a social security number in order to work, and (2) a social security number is required in order for an employer to meet all tax filing and reporting requirements under state and federal law.

The two primary issues that lead employers to believe that each of their employees must have valid social security number are the I.N.S. (Form I-9) and the I.R.S. (Form W-4).

Employment Eligibility Verification

The passage of the *Immigration Reform and Control Act of 1986* (IRCA) sought to prevent illegal immigrants, principally from Mexico and other Hispanic countries, from finding work in the United States. This was done by imposing civil and criminal penalties against employers who knowingly hired such workers. As a result there has been a movement toward requiring every American to have a national identification card - or a work permit issued by a federal bureaucracy.

However it is a well-settled principle of American Constitution Law, that every member of a community has a right to enjoy a free labor market, to have a free flow of labor for the purpose of carrying on the business in which he has chosen to embark. This right is not merely an abstract one; it is one recognized as the basis of a cause of action where there is an unlawful interference with it. Specifically, laborers have a right to a free and open market in which to dispose of their labor, or a right to a free access to the labor market for the purpose of maintaining or increasing the incorporeal value of their capacity to labor. A laborer has the same right to sell his labor as any other property owner.

Labor is deemed to be property, especially within the meaning of constitutional guaranties. Thus, the right to acquire property includes the right to acquire property by labor. Since the right to labor is protected by the Constitution and numerous guaranties of state constitutions, one cannot be deprived of such right by arbitrary mandate of the state legislatures and/or by the Federal government.

In *Patton v. Bellingham*, 179 Wash. 566, 38 P.2d 364 (1937), the Washington Supreme Court reaffirmed the principle of law that labor is a right of property by declaring:

"The right to labor or earn one's livelihood in any legitimate field of industry or business is a right of property, and any unlawful or unreasonable interference with or abridgment of such right is an invasion thereof, and a restriction of the liberty of the citizen as guaranteed by the Constitution." *Yee Gee v. City and County of San Francisco*, 235 Fed. 757, 759.

Any national legislation establishing a Federal Work Permit or National Identify Card, utilizing a social security number as a condition for obtaining employment in the United States, seeks only to deprive Americans of a fundamental freedom-the right to earn a living. Since the right to labor and to its protection from unlawful interference is a constitutional, as well as a common-law right, and since man has a natural right to the fruits of his own industry regardless of governmental demands, any legislation passed by Congress requiring every employer to verify an employee's social security number before commencing work, would not be intended for controlling immigration, but passed solely for the purpose of destroying rights and the principles of freedom and justice upon which the Constitution rests ... which is probably why no such law exist.

Internal Revenue Service Requirement

Today it is common for an employer to require a social security number from an employee, under the mistaken belief that unless the employee had a social security number, the employer would be in violation of Internal Revenue Regulations and subject to numerous penalties. The employee is notified that unless they obtain a social security number, they will be terminated.

However, the Internal Revenue Code and regulations do not contain an absolute requirement that an employer must provide an employee's social security number to the Internal Revenue Service. 26 USC §6109(a)(3) provides:

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 USC §6109(a)(3)

The IRS regulation interpreting 26 CFR §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, statement, or other documents to the Internal Revenue Service so stating. 26 CFR §301.6109-1(c).

The applicable Federal statute and regulation place a duty on the employer to “request” a taxpayer identifying number from the employee. If any return, statement, or other document must be furnished to the Internal Revenue Service and the employer has been unable to obtain an identifying number from the employee, after requesting the number, then the employer need only to include on the transmittal document forwarding such returns, statements, or other documents, an affidavit stating that the request for the number was made.

Until December 1989, 26 U.S.C. §6676 (1989), set forth the penalties for failing to supply the Internal Revenue Service with the identifying number. This section states that a \$50.00 penalty will be imposed for failure of an employer to provide an identifying number on any

document filed with the Internal Revenue Service unless it is shown that the failure is due to reasonable cause and not willful neglect. The regulation interpreting the statute provides:

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.

The *Omnibus Budget Restoration Act of 1983* (Pub. Law 101-239, Title VII, Section 7711(b)(1)), repealed Section 6676 of the Internal Revenue Code effective for statements or documents filed after December 31, 1989. Since December 31, 1989, Code Section 6723 has governed the failure to comply with information reporting requirements. Section 6723 provides that a penalty of \$50.00 shall be assessed for each failure to comply with a reporting requirement. However, *26 USC §6724*, 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 USC §6724(a)*.

Therefore, the Code and regulations mandate a payer only to *request* the identifying number of the employee or 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, upon the filing of an affidavit with the Internal Revenue Service stating that a request for the payee's identifying number was made.

How to Hire an Unenumerated Employee

Most employers believe that they are required by law to obtain a social security number from each employee. Additionally the advice from the employer's attorney or accountant usually reinforces this opinion; often the advice further suggests they should terminate the employee in question. However, closer examination of the law and regulation is prudent.

Each American, enumerated or not, has broad, legally protected rights. Violating a person's rights can lead employers into serious legal and financial problems ... and in some cases, even jail. Be certain that your decision to terminate an unenumerated employee is based on competent legal advice from an attorney who can represent you in court. Getting legal advice from an accountant is unwise. Additionally, employers also need to recognize that the Internal Revenue Service will not appear in court on their behalf ... even when they advise terminating an unenumerated employee.

According to the Constitution of the United States, only Congress can make law. Laws become codified into the United State Code books after they pass through and are finally signed by our President. Often, Congress delegates authority to various departments to create regulations for implementing these laws. These regulations are codified into the United States Code of Federal Regulations.

Complying with Internal Revenue Service Requirements

The law, 26 USC §6109(d) stipulates that when an individual's identifying number is specified (or used) by the Internal Revenue Service (IRS), the identifying number will be the social security number that was assigned to that individual by the Social Security Administration. Specifically, the law says:

(d) Use of social security account number

The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title. 26 USC §6109(d)

According to the Internal Revenue Service, employers are required to ask an employee for a social security number and record the number if it is available or make a notation "unknown" if the number is not available. There is no legal requirement that an employee have a social security number nor is there a requirement that the employer obtain a social security number from an employee.

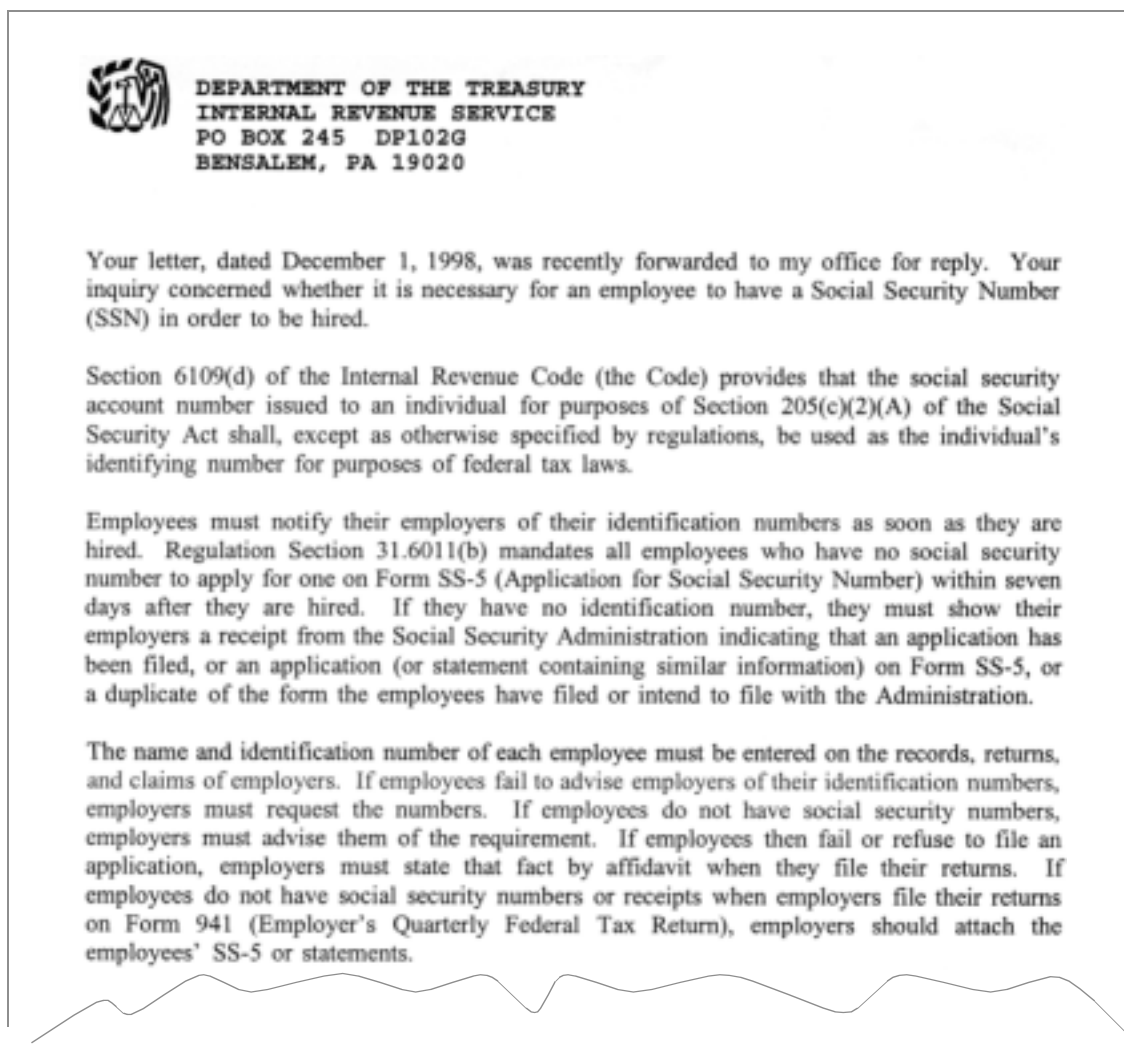


Figure 1: Example of I.R.S.'s Intimidating and Fraudulent Response

The regulation, 26 CFR §31.6011(b), specifically, §6011(b)-2 discusses employee account numbers and delineates the process employees and employers should go through to collect the proper number. This section also discusses how an employee who does not have or know the number may obtain a social security number ... should they wish to do so. The section also discusses the employer's obligation to assist an employee in applying for a social security number. But the section does not require an employee who has not been issued a social security number, *because they do not want a social security number*¹, to obtain one.

This section is sometimes referred to when a legal department is trying to say that employees are required by law to have a social security number. Specifically, they will quote 26 CFR §31.6011(b)-2(b)(iv), which reads:

26 CFR §31.6011(b)-2(b)(iv)

(b) Duties of employee with respect to his account number ...

(iv) Employee who is unable to furnish number or receipt. If an employee is unable to comply with the requirement of paragraph (b)(1)(i), (ii), or (iii) of this section, the employee shall furnish to the employer a statement in writing, signed by the employee, setting forth the date of the statement, the employee's full name, present address, date and place of birth, father's full name, mother's full name before marriage, and the employee's sex, including a statement as to whether the employee has previously filed an application on Form SS-5 and, if so, the date and place of such filing. The information required by this subdivision shall be furnished on Form SS-5, if a copy of Form SS-5 is available. The furnishing of such a Form SS-5 or other statement by the employee to the employer does not relieve the employee of his obligation to make an application on Form SS-5 and file it with a district office of the Social Security Administration as required by paragraph (a) of this section. The foregoing provisions of this subdivision are not applicable to an employee engaged exclusively in the performance of domestic service in a private home of his employer not on a farm operated for profit, or in the performance of agricultural labor, if the services are performed for an employer other than an employer required to file returns of the taxes imposed by the Federal Insurance Contributions Act with the office of the United States Internal Revenue Service in Puerto Rico. However, such employee shall advise the employer of his full name and present address.

The wording of this portion of code can be a bit confusing. Certainly phrases such as, "... shall furnish to the employer ..." do appear to mandate the requirement. However, this portion of code belongs to a section regarding the "duties of an employee with respect to his account number"; that is, it is written for an employee who either doesn't remember his account number, or is not sure if an account number has been assigned and wants to obtain a number if one has not been assigned. This section of code does not require an employee, who does not wish to obtain a social security number, to obtain one. Additionally, note the use of the permissive term *shall* (see page x).

However, employers are not relieved of the requirement of asking an employee for a social security number, simply because an employee does not have or wish to obtain a social security number. Specifically, 26 CFR §6011(b)-2(c) requires an employer to do one or more of the following six things when attempting to obtain an employee's social security number.

1. Note the employer is expected to assist an employee who wishes to obtain a social security number. However, some employees may not want a social security number – this regulation does not require an employer to assist those employees who do not wish to obtain a social security number.

Table 1 The Duties of Employer

Condition		Employer Must
1.	Employee shows account number	Employer shall enter the account number and name, exactly as shown on the card.
2.	Employee does not show account number card	Employer shall comply with the following:
i	Employee has not applied for account number	Employer shall inform the employee [to get a card]
ii	Employee has account number	Employer shall enter it in his records
iii	Employee has a receipt for application	Employer shall enter it in his records
iv	Employee furnishes Form SS-5 or statement	Employer shall retain [a copy] of such information
v	Employee is a household or agricultural worker	Employer shall enter their name and address.

26 CFR Sec. 31.6011(b)-2 Employees' account numbers.

(a) Requirement of application--(1) In general--(i) Before November 1, 1962. Every employee who on day 1 of December 1, 1954, as before November 1, 1962, employed or was subject to the

provisions relating to the furnishing of an account number by the employee to his employer.

(c) Duties of employer with respect to employees' account numbers--(1) Employee who shows account number. Upon being shown the account number card issued to an employee by the Social Security Administration, the employer shall enter the account number and name, exactly as shown on the card, in the employer's records, returns, statements for employees, and claims to the extent required by the applicable forms, regulations, and instructions.

(2) Employee who does not show account number card. With respect to an employee who, on the day on which he is required to comply with paragraph (b)(1)(i), (ii), (iii), or (iv) of this section, does not show the employer an account number card issued to the employee by the Social Security Administration, the employer shall request such employee to show him such card. If the card is not shown, the employer shall comply with the applicable provisions of paragraph (c)(1)(i), (ii), (iii), (iv), or (v) of this section:

(i) Employee who has not applied for account number. If the employee has not been assigned an account number and has not made application therefor with a district office of the Social Security Administration, the employer shall inform the employee of his duties under this section.

(ii) Employee who has account number. If the employee advises the employer of his number and name as shown on his account number card, as provided in paragraph (b)(1)(ii) of this section, the employer shall enter such number and name in his records.

(iii) Employee who has receipt for application. If the employee shows the employer, as provided in paragraph (b)(1)(iii) of this section, a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received from the employee, the employer shall enter in his records with respect to such employee the name and address of the employee exactly as shown on the receipt, the expiration date of the receipt, and the address of the issuing office. The receipt shall be retained by the employee.

(iv) Employee who furnishes Form SS-5 or statement. If the employee furnishes information to the employer as provided in paragraph (b)(1)(iv) of this section, the employer shall retain such information for use as provided in paragraph (c)(3)(ii) of this section.

(v) Household or agricultural employees. If the employee advises the employer of his full name and present address in accordance with those provisions of paragraph (b)(1)(iv) of this section which are applicable in the case of employees engaged exclusively in the performance of domestic service in a private home of the employer not on a farm operated for profit, or agricultural labor, the employer shall enter such name and address in his records.

(3) Account number unknown when return is filed. In any case in which the employee's account number is unknown when the employer at the time the employee's return is filed

the Social Security Administration or from any district director.

(6) Prospective employees. While not mandatory, it is suggested that the employer advise any prospective employee who does not have an account number of the requirements of paragraphs (a) and (b) of this section.

26 CFR §6011(b)-2(c)(6) provides that employers are not required to ask prospective employees for a social security number, but instead suggests that an employer should ask:

(6) Prospective employees. While not mandatory, it is suggested that the employer advise any prospective employee who does not have an account of the requirements of paragraph (a) and (b) of this section. 26 CFR §6011(b)-2(c)(6)

The Law Protects the Employer

Federal law requires employers to request a social security number from payees, employees or contractors. There is no federal law actually requiring this disclosure as a

condition of employment or contract and there is no penalty for failing to obtain this disclosure. 26 CFR 301.6109-1(c) prescribes the procedures that an employer must follow. This regulation requires a payor to request disclosure of the identifying number. If disclosure is refused, a second request must be made, stating that disclosure is required by federal law, even though it is not required by federal law. If disclosure is refused a second time, the payor must attach an affidavit to any forms needing the social security number, stating that the requirements for requesting disclosure have been met.

No federal or state law imposes any penalty for not obtaining disclosure of a social security number as a condition of employment.

26 USC §6723 provides that a penalty of \$50.00 shall be assessed for each failure to comply with a reporting requirement. However, 26 USC §6724, 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 USC §6724(a).

Therefore, it is prudent that a business develop proof that it has complied with its requirement to ask an employee for, and was unable to obtain, a social security number. The following form (or similar) should be given to the employee for his signature:

Form P-1	Reasonable Cause Affidavit by Payor For Not Obtaining Payee's Identifying Number ► Release From Penalty—26 U.S.C. §6724(a)	
Employer/Payor's name and address Zip Construction, Inc., 1865 Tully Road, San Jose, Calif., 95134		Employer identification number 57 0631823
Employer/Payor statement: I, <u>John McGuire</u> , being an officer of <u>Zip Construction, Inc.</u> , hereby state that I have asked for the identifying number of the employee/payee, <u>Tom Brokaw</u> , who has declined to provide an identifying number. I am filing this affidavit in accordance with 26 USC 6724, waiver of penalty (26 USC 6724(a)) assessed under the code upon a showing of reasonable cause, and Treasury Regulation 301.6109-1(c).		
I certify that the information stated here is correct and that I asked the employee/payee for a taxpayer ID number (Social security number) and that the employee/payee declined to provide such number. Employer/Payor signature ► <u>John McGuire</u> John McGuire Date ► <u>9/21/99</u>		
Employee/Payee information		
Type or print employee/payee first name and initial Tom Brokaw		Last name Social security number (write "None" if you do not have a SSN or "Declined" if you do not wish to provide a SSN) DECLINED
Home address (number and street or rural route) 3672 Herman Road		Employee/payee statement: I, <u>Tom Brokaw</u> have declined to provide an identifying number to my employer/payor, <u>Zip Construction, Inc.</u>
City or town, State and ZIP code Santa Cruz, Calif.		
I certify that the information stated here is correct and the employer/payor did ask me for a taxpayer ID number (social security number) and that I declined to provide such number. Employee/payee signature ► <u>Tom Brokaw</u> Tom Brokaw Date ► <u>9/21/99</u>		
26 USC §6724, waiver of penalty (26 USC §6724(a)) assessed under the code upon a showing of reasonable cause, and Treasury Regulation 301.6109-1(c) Treasury Regulation 301.6109-1(c) provides: When the person filing the return statement, or other document does not know the SSN 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. A payor is required to request the identifying number of the payee. If after such request has been made, the payee does not furnish the payor with an identifying number, the penalty (\$50.00) will not be assessed against the payor, if it is shown that such failure is due to reasonable cause and not willful neglect. [See also 26 USC §6724, waiver of penalty (26 USC §6724(a)) assessed under the code upon a showing of reasonable cause.]		
Public Domain—Privacy Form P-1 (02) 1999		

An employer should attach a copy of this completed form to your business tax return.

Complying with Internal Revenue Service Form W-4

Most employment policies require that each employee complete an Internal Revenue Service Form W-4 before the employee can begin work. They incorrectly believe that 26 USC §3402 requires every employee to complete a Form W-4. Specifically, they refer to the notice on the lower-back of the Form, 26 USC §3402(f)(2)(A):

26 USC §3402. Income tax collected at source
 (a) Requirement of withholding

(1) In general

Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with ...

(f) Withholding exemptions

(2) Exemption certificates

(A) On commencement of employment on or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.

This requirement is implemented in regulation at 26 CFR §31.3402(f)(2)-1:

26 CFR §31.3402(f)(2)-1 Withholding exemption certificates.

(a) On commencement of employment. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed withholding exemption certificate relating to his marital status and the number of withholding exemptions which he claims, which number shall in no event exceed the number to which he is entitled, or, if the statements described in Sec. 31.3402(n)-1 are true with respect to an individual, he may furnish his employer with a signed withholding exemption certificate which contains such statements. For form and contents of such certificates, see Sec. 31.3402(f)(5)-1. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate, such employee shall be considered as a single person claiming no withholding exemptions.

Now that we have outlined the basic Internal Revenue Service requirement, let's look a little closer at what is being stated:

- Notice that 26 USC §3402(a)(1) defines the application of this section by stating: "Except as otherwise provided in this section"
- Notice that 26 CFR §31.3402(f)(2)-1 states that "The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate"
 - The phrase "if the employee fails to furnish such certificate," means that an employee may decline to provide the Form W-4. (*Note that it also states: "such employee shall be considered as a single person claiming no withholding exemptions." – we'll discuss this shortly.*)

Understand that if the Form W-4, *Employee's Withholding Allowance Certificate* were absolutely required from each employee – if it were, without exception an absolute legally required mandate ... then why is the employer required to ask for it and why must the employee furnish it. If it were clearly required the law would simply direct the employer to do the withholding ... without exceptions.

This argument usually continues with the assertion that the regulation also provides that "such employee shall be considered as a single person claiming no withholding exemptions." But the counter to this assertion is to clarify what is written here. The phrase "shall be considered as" does not authorize the actual withholding of money, it simply tells the employer how to think about this person. The authorization for withholding comes only with a properly completed and signed Form W-4 agreement.

The Form W-4 is a Voluntary Withholding Agreement

The reason that an employee might “fail to furnish such certificate” is that 26 USC §3402(a)(1), which defines the application of this entire section, states: “Except as otherwise provided in this section” While reading further on in the section we find the “otherwise provided” is explained in 26 CFR §31.3402(p)-1 where it explains that the Form W-4 is a voluntary withholding agreement and its completion is not required by law.

26 CFR §31.3402(p)-1 Voluntary withholding agreements.

(a) In general. An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970. An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee. The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See Sec. 31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

(b) Form and duration of agreement. (1)(i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding.

(ii) In the case of an employee who desires to enter into an agreement under section 3402(p) with his employer, if the employee performs services (in addition to those to be the subject of the agreement) the remuneration for which is subject to mandatory income tax withholding by such employer, or if the employee wishes to specify that the agreement terminate on a specific date, the employee shall furnish the employer with a request for withholding which shall be signed by the employee, and shall contain-

- (a) The name, address, and social security number of the employee making the request,
- (b) The name and address of the employer,
- (c) A statement that the employee desires withholding of Federal income tax, and applicable, of qualified State individual income tax (see paragraph (d)(3)(i) of Sec. 301.6361-1 of this chapter (Regulations on Procedures and Administration)), and
- (d) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement.

If accepted by the employer as provided in subdivision (iii) of this subparagraph, the request shall be attached to, and constitute part of, the employee's Form W-4. An employee who furnishes his employer a request for withholding under this subdivision shall also furnish such employer with Form W-4 if such employee does not already have a Form W-4 in effect with such employer.

(iii) No request for withholding under section 3402(p) shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made.

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

Employers who hire employees who do not have social security numbers need to adjust their policy because the Internal Revenue Service withholding policy requires employees who complete this form to provide a taxpayer identification number (TIN) or social security number.

Form W-4 Department of the Treasury Internal Revenue Service		Employee's Withholding Allowance Certificate ► For Privacy Act and Paperwork Reduction Act Notice, see page 2.		OMB No. 1545-0047 1999
1 Type or print your first name and middle initial		Last name		2 Your social security number
Home address (number and street or rural route)		3 ☐ Single ☐ Married ☐ Married, but withheld at higher Single rate. Note: If married, but legally separated or spouse is a nonresident alien, check the Single box.		
City or town, state, and ZIP code		4 If your last name differs from that on your social security card, check here. You must call 1-800-772-1213 for a new card. ☐		
5 Total number of allowances you are claiming (from line H above or from the worksheets on page 2 if they apply)				5
6 Additional amount, if any, you want withheld from each paycheck				6 \$
7 I claim exemption from withholding for 1999, and I certify that I meet BOTH of the following conditions for exemption: • Last year I had a right to a refund of ALL Federal income tax withheld because I had NO tax liability AND • This year I expect a refund of ALL Federal income tax withheld because I expect to have NO tax liability. If you meet both conditions, write "EXEMPT" here				
Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate, or I am entitled to claim exempt status. Employee's signature (Form is not valid unless you sign it)				
8 Employer's name and address (Employer: Complete 8 and 10 only if sending to the IRS)				9 Office code (optional)
				10 Employer identification number

Cat. No. 102200Q

The Form W-4 becomes a binding withholding agreement when it is completed by an employee and accepted by the employer. Once an employee volunteers to enter into a withholding agreement with an employer, and the employer accepts that agreement, then the employer becomes legally obligated to withhold and pay the taxes due. There is no legal authority to withhold nor is there any other obligation in the absence of this agreement.

Although there is no law, employers should advise employees who do not complete a Form W-4 that they will be responsible for paying any due taxes. These employees should be asked to sign a statement, such as the following, showing that they do not wish to enter a

voluntary withholding agreement and that they understand that they lose their entitlement to certain government benefits.

Form W-4T (Rev. November 1998)	Voluntary Withholding Agreement Termination or Withdrawal from W-4 agreement ▶ Voluntary Withholding Agreements—26 C.F.R. §31.3402(p)-1
Employer's name and address Zip Construction, Inc., 1865 Tully Road, San Jose, Calif., 95134	Employer identification number 57 0631823
Submitted for: ☒ In lieu of W-4, <i>Employee's Withholding Certificate</i> . Employer will not make any payroll withholding. Employee is responsible for all taxes. ☐ Termination of previous W-4 agreement. Beginning effective on the last day of pay period in _____ of _____.	
Employee's Liability Release Statement: I, <u>Tom Brokaw</u> , understand that termination or withdrawal of a W-4, <i>Employee's Withholding Certificate</i> , releases the employer from any obligation to make payroll withholdings. Furthermore, I understand that I am responsible for all taxes due and I release the employer from any tax liability associated with this employee.	
I certify that the foregoing statement is correct and I release the employer from any withholding obligations or claims. Employee's signature ▶ <u>Tom Brokaw</u> Tom Brokaw Date <u>9/21/99</u>	
Employee's information	
Type or print employee/payee first name and initial Tom Brokaw	Last name Social security number (write "None" if you do not have a SSN or "Declined" if you do not wish to provide a SSN) DECLINED
Home address (number and street or rural route) 3672 Herman Road	
City or town, State and ZIP code Santa Cruz, Calif.	
Sec. 31.3402(p)-1 Voluntary withholding agreements. (a) In general. An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970. (b) Form and duration of agreement. (i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding. (c) A statement that the employee desires withholding of Federal income tax, and applicable, of qualified State individual income tax (see paragraph (d)(3)(i) of Sec. 301.6361-1 of this chapter (Regulations on Procedures and Administration)), and (d) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement. If accepted by the employer as provided in subdivision (iii) of this subparagraph, the request shall be attached to, and constitute part of, the employee's Form W-4. An employee who furnishes his employer a request for withholding under this subdivision shall also furnish such employer with Form W-4 if such employee does not already have a Form W-4 in effect with such employer. (iii) No request for withholding under section 3402(p) shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made. (2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.	

Complying with Withholding Requirements

There are no state or federal tax withholding requirements for employees who do not have social security numbers. However, as an employer you should remind them that they cannot collect unemployment compensation should they be laid off. Additionally, they are responsible for paying any taxes that may be due.

26 CFR parts 31.3402(d)-1 and 31.3403-1 relate to penalties for not withholding. The first regulation pertains only to "Every employer required to deduct ...," but does not create any

obligation in itself, and only refers the second regulation which simply refers back to the first regulation as the penalty; however, there is no penalty imposed by either regulations. The requirement and authority to deduct withholding comes only after the employer has a properly completed and signed I.R.S. Form W-4 submitted by an employee.

Complying with the I.N.S. Form I-9 Requirements

Federal law, 8 USC §1324a makes it illegal for a person or other entity to hire, recruit or employ an alien who is not authorized to work in the United States.

8 USC §1324a. Unlawful employment of aliens.

(a) Making employment of unauthorized aliens unlawful

(1) In general

It is unlawful for a person or other entity -

(A) to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3) of this section) with respect to such employment, or

(B)(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) of this section or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 1802 of title 29), to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b) of this section.

The I.N.S. employment verification Form I-9 is implemented by regulation at 8 CFR §274a.2.

8 CFR §274a.2 Verification of employment eligibility.

(a) General. This section states the requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. For purposes of complying with section 274A(b) of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802). The Form I-9, Employment Eligibility Verification Form, has been designated by the Service as the form to be used in complying with the requirements of this section. ...

Most employers incorrectly apply the I.N.S. Form I-9 requirement across the board with all employees and new recruits. However, the law, 8 USC §1324a, clearly applies this issue to “knowing the alien is an unauthorized alien” and narrowly defines its application to “an agricultural association, agricultural employer, or farm labor contractor.”

Used Only for Agricultural Labor

The instruction for the I.N.S. Form I-9 admits that its “authority for collecting this information is ... 8 U.S.C. 1324a.”

U.S. Department of Justice
Immigration and Naturalization Service

INSTRUCTIONS
PLEASE PRINT OR TYPE (Do not write in cursive)

Anti-Discrimination Notice. It is illegal to discriminate against any individual who has not been authorized to work in the U.S. in hiring, discharge, or otherwise or referring to a job because of that individual's national origin or citizenship status. It is illegal to discriminate against such employable individuals. Employers **MUST** specify which documentation they will accept from an employee. The release of this information is not a condition of employment and may not be used to discriminate against individuals.

Section 1 - Employee. An employee must complete this section. If an employee is not authorized to work in the U.S., the form will be rejected. If an employee is authorized to work in the U.S., the form will be accepted. If an employee is not authorized to work in the U.S., the form will be rejected. If an employee is authorized to work in the U.S., the form will be accepted. If an employee is not authorized to work in the U.S., the form will be rejected. If an employee is authorized to work in the U.S., the form will be accepted.

Section 2 - Employer. For the purpose of completing this form, the employer must complete this section. If an employer is not authorized to hire in the U.S., the form will be rejected. If an employer is authorized to hire in the U.S., the form will be accepted. If an employer is not authorized to hire in the U.S., the form will be rejected. If an employer is authorized to hire in the U.S., the form will be accepted.

Section 3 - Updating and Reverification. Employees must complete this section. If an employee is not authorized to work in the U.S., the form will be rejected. If an employee is authorized to work in the U.S., the form will be accepted. If an employee is not authorized to work in the U.S., the form will be rejected. If an employee is authorized to work in the U.S., the form will be accepted.

Privacy Act Notice. The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a).

Based on that law and the implementing regulations, the I.N.S Form I-9 is used only for “an agricultural association, agricultural employer, or farm labor contractor” to verify that the alien they are hiring is authorized to work in the United States.

Neither the law, nor the regulation authorizes its use for citizens or for employment other than “an agricultural association, agricultural employer, or farm labor contractor.” It is unlawful to apply this form to citizens or non-agricultural labor.

Employer Cannot Specify Which Documents They Accept

A social security card may be used, but is not needed, as one of the documents that establish employment eligibility. Although the social security number is requested on the face of the I-9 form, it is not required. Additionally, the employer is prohibited from specifying which documents are acceptable. Therefore, an employee who does not have a

social security number may properly complete this form if he possesses one of the other documents needed to show employment eligibility.

U.S. Department of Justice Immigration and Naturalization Service		OMB No. 1115-0136 Employment Eligibility Verification	
Please read instructions carefully before completing this form. The instructions must be available during completion of this form. ANTI-DISCRIMINATION NOTICE. It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.			
Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins			
Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.		I attest, under penalty of perjury, that I am (check one of the following): A citizen or national of the United States A Lawful Permanent Resident (Alien # A _____) An alien authorized to work until ____/____/____ (Alien # or Admission # _____)	
Employee's Signature		Date (month/day/year)	

Alternative Documentation

It is important to understand that the law prohibits an employer from knowingly hiring an alien who is not authorized to work in the United States and provides for a positive defense if he has made copies of certain documents that the alien provides as proof of his authorization to work in the United States. The law also requires the alien to attest to their authorization under the penalty of perjury.

Natural citizens cannot be compelled to prove their authorization to work; the First, Fifth, Ninth and Tenth amendments of the United States Constitution prohibit the government from requiring a citizen to make an attestation or to attest under the penalty of perjury. As such, you cannot lawfully discriminate against natural citizens who assert their right to work and the law will not protect you when those citizen seek legal recourse against you personally and your company. In fact, if you are not careful, you could become criminally liable, for example 18 USC §242 and 42 USC §1983 provides that:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States,... shall be fined under this title or imprisoned not more than one year, or both;
 42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

This sounds like employers are being put into a ridiculously difficult situation, and to some degree that is certainly true: on one hand the government seems to be threatening employers who fail to comply with their wishes, and on the other hand they may get sued or even go to jail if they violate the rights of a citizen. However, when employers take the time to carefully study the law, as you are doing here, they discover that the issue is really not that complicated.

The law prohibits an employer from knowingly hiring an alien who is not authorized to work in the United States. The law does not prohibit an employer from doing any of the following:

- *unknowingly* hiring an alien who is not authorized to work in the United States
- hiring an alien who is authorized to work in the United States
- hiring a citizen

Additionally the law provides for a positive defense if you have obtained copies of certain documents and an attestation from the alien.

Sec. 1324a. Unlawful employment of aliens

(a)(3) Defense

A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) of this section with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

(b)(6) Good faith compliance

(A) In general Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

In writing the positive defense clause into the law, Congress has tricked most employers into believing that this is their only “positive defense” choice. Of course, such is simply not true; a positive defense always exists and we do not need Congress’ permission to use it. A positive defense exists if you can show any of the following:

- that you did not know that the employee was an alien
- that you did not know that the employee was not authorized to work in the United States
- that the employee is a citizen

While many people just simply do what they are asked and never assert their rights as Americans, you will occasionally find those who do. Natural citizens have many protected rights that are often forgotten or not taken seriously. You will find that most of these people understand the extra burden that our government seems to place on employers and often are willing to compromise with you in certain areas. You should consider offering the following

form, as an alternative to the I.N.S. Form I-9, to those citizens who assert their natural right to work.

Form P-2		Citizen's Notice of Employment Eligibility ► in lieu of I.N.S. Form I-9 <i>Employment Eligibility Verification</i>	
Name and address of Citizen Tom Brokaw 3672 Herman Road Santa Cruz, Calif., 95060		Name and address of Notice Recipient Zip Construction, Inc. 1865 Tully Road San Jose, Calif., 95134	
Citizen's statement: I, <u>Tom Brokaw</u> , certify that I am a free Citizen of the State of <u>California</u> and am in all ways free and authorized to work unincumbered in any State of the United States by the Right of my natural citizenship.			
I certify that the forgoing information stated here is true and correct.			
Citizen's signature ► <u>Tom Brokaw</u>		Tom Brokaw	Date ► <u>9/21/99</u>
Federal law, 8 USC §1324a make it is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment, or to hire for employment in the United States an individual without complying with the requirements of subsection (b) of this section or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor, to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b) of this section. 8 CFR §274a.2 Verification of employment eligibility: (a) General. This section states the requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. For purposes of complying with section 274A(b) of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, 29 USC §1802). The Form I-9, Employment Eligibility Verification Form, has been designated by the Service as the form to be used in complying with the requirements of this section. ...			
Public Domain—Privacy Form P-2			

As a point of interest, employers should know that the I.N.S. has no jurisdiction over natural citizens while they are in a State. Additionally the I.N.S. has no jurisdiction over an employer within a State who does not hire non-citizens. However, the I.N.S. may be able to assert jurisdiction if it can show that aliens do work for you. When an employee or an employer signs any government form “under penalty of perjury,” they have surrendered their rights and shifted the burden of proof from the government and onto themselves. This shifting of the burden of proof opens the door to I.N.S. jurisdiction. Be very cautious about signing anything “under the penalty of perjury.”

Understanding the I.R.S. Form W-9

Utilization of Internal Revenue Service (I.R.S.) Form W-9, *Request for Taxpayer Identification Number and Certification*, is defined in three parts of Title 26 of the United States Code of Federal Regulations (26 CFR). According to the Internal Revenue Service regulations, Form W-9 is used for collecting taxpayer identification associated with securities and brokerage accounts, and certain other accounts that pay interest or dividends (26CFR1.6401, 1.6042 and 31.3406). There is no other application authorized for use of Form W-9.

It would be foolish to use the Form W-9 in any other application because doing so suggests to the Internal Revenue Service that your relationship is in someway associated with securities or brokerage accounts, or an account that pays interest or dividends.

Dealing with Benefits

Because certain deductions are not made for employees who do not have social security numbers, these employees fail to qualify for many benefits.

Benefit	Eligible	Condition
Unemployment compensation	No	Use of a social security number is required to collect unemployment compensation. Because the employee fails to qualify, the employer should not pay taxes on these programs for each unenumerated worker.
Worker's compensation	Yes	Employee social security number is not required for the employer's worker's compensation package if the worker's compensation is provided by a private insurance provider. However a social security number is required for State or federal administered insurance.
Social security	No	The Social Security Administration uses the social security account number to track the employees account. The employer does make co-payments to the worker's social security account and no money is withheld from the worker's pay. The worker has no social security benefits.
Medical or dental insurance	Yes	Employee social security number is not required for private medical or dental insurance.

Unenumerated employees should be made aware of the list of benefits that they are not entitled to and they should be encouraged to sign an awareness statement recognizing that fact and agreeing to the loss of certain benefits as a condition of their employment.

The Pro's and Con's of Hiring the Unenumerated

Table 2 lists the various pro's and con's of dealing with enumerated and unenumerated employees and contractors.

Table 2 The Pro's and Con's of Hiring Enumerated verses Unenumerated

Issue	Enumerated	Unenumerated
Liability to IRS to withhold taxes	A tax liability exists with the IRS because your employees entered a W-4 agreement and you accepted the agreement to withhold. Because of the 26 USC 3402 agreement, you are liable for all taxes.	Since no 26 USC 3402 tax withholding agreement exists the employer is not liable for employee taxes. Without a W-4, each employee is liable for their own taxes.
Requirement to produce records for IRS audit	Because you accepted the W-4 agreements, signed under penalty of perjury, the IRS is able to force you to prove your position in an audit.	Because nobody entered a W-4 withholding agreement, there is no "under penalty of perjury" statement. The IRS has no power to audit and the IRS has the obligation to prove their case.
Requirement to appear for an IRS summons	Because of the "under penalty perjury" testaments, you are obligated to appear and prove your case.	The IRS is obligated to prove their case in a regular court of law and any summons must come from that court.
Requirement to appear for an IRS hearing	Because of the "under penalty perjury" testaments, you are obligated to appear and prove your case.	The IRS is obligated to prove their case in a regular court of law and any summons must come from that court.
Requirement to issue W-2s	The law requires you to issue W-2s to each employee	You are prohibited from issuing a W-2 because of the W-2 requirement for a social security number.
Requirement to issue 1099s	The law requires you to issue 1099 to each non-employee	You are prohibited from issuing a 1099 because of the 1099s requirement for a social security number.
Burden of proof in tax matters	Signature "under penalty of perjury" places the burden of proof upon the signer.	Since there is no "under penalty of perjury" signature, the burden of proof exists with the IRS.
Accounting/ bookkeeping requirements	Required for tax withholding.	much easier because there is no tax withholding.
Susceptibility to IRS liens and levies	Highly susceptible because of the "under penalty of perjury" signatures	Impossible without a trial and court order.
Susceptibility to INS intrusion	Highly susceptible because of the "under penalty of perjury" signatures	Impossible without a trial and court order.

Issue	Enumerated	Unenumerated
Susceptibility to employee retaliation	Increased likelihood because most enumerated employees are protected by various government programs	Unlikely because employees received higher pay and signed employment agreements acknowledging the lack of certain benefits.
Risk of employee lawsuit	Increased likelihood because most enumerated employees are protected by various government programs	Unlikely because employees received higher pay and signed employment agreements acknowledging the lack of certain benefits.
Effect on employee moral	The same old routine.	Employees respond better and have greater moral because of higher pay.
Effect on employee allegiance	The same old routine.	Employees appreciate their employer greater, shows stronger allegiance and are likely to remain with their current employer.
Effect on employee productivity	The same old routine.	Employees produce more and better because of higher pay.
Assets protection	Less asset protection because of you increased exposure to IRS audit and liens.	Greater asset protection because of IRS obligation to prove their case in each instant
Effect on the bottom line	The same old routine	Improved effect on bottom line due to higher employee productivity and lower risk of government intrusion.

Why Does My CPA disagree with You?

A huge specialized market exists in tax-compliance issues and most of our accounting practices are closely tied to income tax compliance. The success of the accounting business is largely related to the complexity of the Internal Revenue Service laws and regulations. Many of these CPAs and tax attorneys are also *enrolled agents*.

An enrolled agent is an individual who has successfully completed United States Department of the Treasury monitored training programs and received Internal Revenue Service certification in representing Internal Revenue Service tax law. Enrolled agents help you pay taxes and comply with the desires (*not necessarily the law*) of the Internal Revenue Service. Enrolled agents are trained and certified by the Internal Revenue Service to do exactly what the Internal Revenue Service wants. Enrolled agents are often rewarded by the Internal Revenue Service by keeping their clients involved with the tax problems. The majority of clients who use enrolled agents receive more Internal Revenue Service notices and letters than people who don't use them.

CPAs and most tax attorneys will not tell you about the issues we discuss because their financial success is tied to the complexity of income tax law and to keeping you in the system. When people and businesses discover how to sever the strings that tie them into this corrupt system, they no longer need the assistance of these so-call specialists and usually fire them. These specialists do not tell you about these laws (that you are now reading for yourself) because they fear that they will lose your business. You are tied to the system by the laws that they choose to tell you about, the complexity of those laws and the fear of Internal Revenue Service retaliation.

Most tax specialist know that there is no law requiring a person to obtain and use a social security number and will confirm that fact if you ask them directly. They will also tell you that you should fire any employee who does not have a social security number and that they will no longer help you if you don't. Understand, that is the same thing as saying "yeah, we know the law, but we're not going to help you comply with the law." Perhaps you should ask your tax specialist some direct questions and then you can decide who you really trust. Ask them about the following:

- Can you show me the law that requires a person to obtain a social security number?
- Can you show me the law that makes an IRS Form W-4 mandatory?
- Can you show me the law that requires me to have an INS Form I-9 on file for each non-agribusiness employee?
- Can you show me the law that requires me to withhold employee tax money without a W-4?
- Can you explain the legal process for hiring a person who has no social security number?
- Can you show me the law that exempts me from penalties if I don't get an employee's social security number?

Getting Hired Without a Social Security Number

Every person hoping to be hired needs to understand that most employers are hiring employees because they want to make more money. For that reason, employers need to hire a person that will produce at a level that makes the employer more money then they spend as a result of hiring that person. Therefore employers need employees who are not only productive, but honest, reliable and diligent as well. Additionally employers don't hire people who might bring other problems to the job ... such as Internal Revenue Service inquiries.

As a potential employee you need to understand that given equal or even slightly better skills, an employer who understands their right to hire you and the legal protection provided to him, is still likely to hire the enumerated employee.

As a person who has decided to assert your legal right to not obtain or use a social security number, you will, if you haven't already, quickly learn that it is rapidly becoming increasingly difficult to live free. In many ways, you must exercise greater responsibility in

your various personal, legal and civic duties than most other Americans. Unlike other Americans, you realize that you are totally responsible for your actions and future. You responsibly pay all the taxes you owe, and realize that you must prepare for your own retirement because you cannot collect social security or Medicare benefits.

Most enumerated people believe that American life is too difficult without a social security number and have surrendered their Rights in return for government security in old-age. You can more easily decide what is important to you after reviewing Table 3 which list the pros and cons for many of the issues.

Table 3 Pros and Cons of Having or Not Having a Social Security Number

Issues	Enumerated	Unenumerated
Banking	Easier because bankers have been tricked or intimidated into enforcing non-existent law.	Banking is more difficult because few Americans assert their lawful rights.
Credit	Not an issue	It is slightly more difficult to establish a credit history without a social security number. It is no longer an issue once your good credit history is established.
Education	Not an issue	Not an issue unless you are seeking a federal student loan.
Employment	Easier because employers have been tricked or intimidated into enforcing non-existent law.	Employment is more difficult because few Americans assert their lawful rights.
Federal home mortgage	Not an issue	Not eligible
Federal license	Not an issue	Not an issue
Food stamps	Not an issue	Not eligible
Independence	Restricted because of their requirement to provide the social security number that was assigned to them.	Greater independence because more laws provide protection against expecting the unenumerated to provide a number that they don't have
Insurance	Not an issue	Not an issue
Medical care	Not an issue	Not an issue
Medicare	Eligible for medicare payments that are too small to cover most needs. Old-age benefits, even with SSI are not sufficient to meet the extra cost.	Not eligible, but because your retirement account provides a higher standard of living you can easily afford private insurance that meets all of your medical needs.

Issues	Enumerated	Unenumerated
Military service	Not an issue	Federal law prohibit the military from requiring a social security number. The military will provide its own service number for those who do not have social security number.
Old-age benefits	The enumerated pay about 16 percent of their income for their entire working life so that they might be able to collect about \$600.00 a month in old-age benefits.	Allowed to save freely, unencumbered by additional taxation, for their own retirement. Saving at the enumerated rate will net them a retirement fund of more than \$2500.00 a month.
Privacy	Much less control of their privacy and are exposed to greater risk of financial fraud.	Assert a tremendous control over their privacy.
SBA loans	Not an issue	Not an issue
Selective service registration	Difficult for young males to avoid registering for the draft because their social security number is well established in federal databases.	The law allows you to register. However, it is nearly impossible to catch you and prosecute if you fail to register.
State license	Not an issue	New federal regulation causing states to pass new laws are making it more difficult for you to assert your rights.
Student loan	May be eligible for federal student loan program. Males must register for the draft.	Not eligible for federally subsidized student loans.
Taxation	Required and unavoidable	IRS computers are not able to track the unenumerated. You must voluntarily meet any obligation for which you may be liable.
Unemployment benefits	The enumerated employer pays the employee less so they can pay for state unemployment insurance.	No state unemployment insurance available.
Veteran benefits	Not an issue	Your military service number is used.
Veteran educational benefits	Not an issue	Your military service number is used.
Veteran home loans	Not an issue	Your military service number is used.

Negotiating With the Prospective Employer

Many unenumerated employees believe that they must work *under-the-table* for very low wages. This assumption has caused a lot of unnecessary hardship for many naive people and has resulted in tremendous savings for many unscrupulous employers. This assumption is absolutely incorrect.

Employers who hire unenumerated employees have fewer payroll deductions which result in a 20 to 40 percent saving for each employee and lower operating overhead. Simply because of this savings, employers should pay unenumerated workers more than their enumerated counterpart. Of course they probably won't want to do that, but to be fair, the employer needs to recognize that you do not enjoy many of the other so-called benefits such as unemployment compensation. Therefore, it is reasonable that you should negotiate a pay that is at least 20 percent above that of enumerated peer employees. Employers should find this a comfortable compromise.

However, with that aside, you will discover that it is very difficult to find employers who will take the time to learn about hiring the unenumerated employee; for those that do learn, few will have the courage to do it.

There are basically two ways to approach this.

- The first way is to simply go to a prospective employer and fill out the employment application as any other potential employee would. With a pencil write this note in the social security number request field: "necessary information provided upon offer of employment." You will need to overwrite the area a bit to fit all of that in, but the personnel people will usually assume that you have your reasons. If they ask, tell them that since the information isn't really needed until you are hired (26 CFR §6011(b)-2(c)(6)), that for security reasons you would like to withhold that information until it become absolutely necessary. They will usually agree.

This will permit you to proceed through the interview process and to receive a real employment offer. If they do not offer to hire you, it is because they found someone they feel more comfortable with and not because of a social security number issue. When they do make you an employment offer, it is because you are the qualified candidate that they want. Soon after their employment offer, they will ask you for a social security number and you now have an opportunity to explain why you don't have one and how they should proceed. Hopefully their legal department will study the issue carefully and make the necessary arrangements. You may offer copies of the appropriate forms available in this manual and you should be willing to sign those agreements.

If they fire you, then you know clearly that it is because they choose to discriminate against you for being unenumerated. You might wish to proceed with the Equal Employment Opportunity Commission or in court.

- The second method is to briefly explain your unenumerated status in a cover letter accompanying your resume. You will get very few positive responses from your resume, but those that do come back will be extremely promising because they understand the issue before interviewing you. This process is most effective when you

have very useful or necessary skills. It is also best received by smaller employers or in smaller communities.

Don't Use a False Social Security Number

Some people suggest that using a false social security number, or using a number that was assigned to someone else may be a reasonable solution for the unenumerated or for somebody who wishes to withhold a social security number. Using a false or fraudulent social security number is not only a bad idea, but may get you into big trouble. Federal law defines several circumstances where using a false social security number is criminal fraud and there are numerous cases where the individuals doing this have been convicted of fraud and sent to prison.

While you are not likely to be convicted of fraud for attempting to use a false social security number during or for the purpose of employment, you are likely to be quickly discovered and fired if you fail to correct the number. The Social Security Administration provides several services that assist employers who wish to verify that a name and social security number match that which was assigned by the Social Security Administration. When the employer uses this service and discovers that the social security number you gave him does match with the information you provided he will ask you to correct the records. The employer may fire you if he suspects you attempted to lie to him on your employment application.

Although specifically dealing with the administration of employees' benefits, federal regulation 20 CFR §422.108 does provide criminal penalties for misrepresentation of social security numbers.

20 CFR §422.108 Criminal penalties.

A person may be subject to criminal penalties for furnishing false information in connection with earnings records or for wrongful use or misrepresentation in connection with social security numbers, pursuant to section 208 of the Social Security Act and sections of title 18 U.S.C. (42 U.S.C. 408; 18 U.S.C. 1001 and 1546).

Dealing With the I.N.S Form I-9

As discussed earlier, most employers incorrectly apply the I.N.S. Form I-9 requirement upon all employees and new recruits. However, the law, 8 USC §1324a, clearly applies this issue to “knowing the alien is an unauthorized alien” and narrowly defines its application to “an agricultural association, agricultural employer, or farm labor contractor.”

If your job application is in the field of agribusiness, it is probably best to simply comply with the employers request. Of course, as a natural born citizens, you may lawfully protest the issue if you wish. However, you should assert good judgement here, since such a protest might result in a job loss. Since the notice on this form restricts the employer from dictating which documents may be used, simply leave the social security number field blank.

People hired in non-agribusiness fields should protest using the I.N.S. employment verification Form I-9 because it implies, according to federal law, that you are being employed in agribusiness. Additionally, since you are attesting to the information “under penalty of perjury,” you are obligating yourself to proving your citizenship to an I.N.S.

officer should he ask you. Without your signature, the burden of proof lies solely with the I.N.S. and their questioning you could easily become harassment. Don't surrender your rights so easily!

Serving Notice

The best way to handle this is to make a copy of the regulation written below and give that copy to the person asking you complete the form. Tell them that they are using the form incorrectly and they are asking you to violate the law.

8 CFR §274a.2 Verification of employment eligibility.

(a) General. This section states the requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. For purposes of complying with section 274A(b) of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802). The Form I-9, Employment Eligibility Verification Form, has been designated by the Service as the form to be used in complying with the requirements of this section. ...

Since federal law prohibits an employer from knowingly hiring an unauthorized alien, it would be prudent for you to offer your employer a signed testament that you are a lawful resident or a natural born citizen. You might include a copy of your birth certificate or some other proof with that testament. You may use one of the appropriate samples from "Sample Letters and Forms" on page 209.

If the employer is adamant about expecting you to sign an I.N.S. Form I-9, and thus surrender your rights as a citizen, then you might consider serving them with a copy of the following document. You should complete two copies of this form and serve one to the employer and keep a copy for your own records. Since employers, like most people, really

hate being officially served legal notices, you should consider that doing this will drastically reduce your chances of being hired.

Use a new form for each person/company that you serve.
Be sure to keep a copy for your records

Form P-3	Citizen's Notice of Employment Eligibility ► in lieu of I.N.S. Form I-9 Employment Eligibility Verification
Name and address of Citizen Tom Brokaw 3672 Herman Road Santa Cruz, Calif., 95060	Name and address of Notice Recipient Greg Morris, WebTV Networks, 1295 Charleston Road Mountain View, CA, 94043
Citizen's statement: I, <u>Tom Brokaw</u> certify that I am a free Citizen of the State of <u>California</u> and am in all ways free and authorized to work uncumbered in any State of the United States by the Right of my natural citizenship.	
I certify that the forgoing information stated here is true and correct. Citizen's signature ► <u>Tom Brokaw</u> Tom Brokaw Date ► <u>9/22/99</u>	
Legal Notice and Warning	
Federal law provides that it is a crime to violate the Rights of a citizens under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages.	
Federal regulation, CFR §274a.2, restricts the use I.N.S. Form I-9 to certain employers involving the use of agricultural workers; the I-9 Form has no other application and is not authorized for use with natural citizens of the United States.	
Notice of Service: I, <u>Tom Brokaw</u> certify I that personally delivered this notice to above named recipient and address on <u>9/22/99</u> at <u>10:30am</u>	
Federal law, 8 USC §1324a makes it unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment, or to hire for employment in the United States an individual without complying with the requirements of subsection (b) of this section or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor, to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b) of this section.	
8 CFR §274a.2 Verification of employment eligibility: (a) General. This section states the requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. For purposes of complying with section 274A(b) of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, 29 USC §1802). The Form I-9, Employment Eligibility Verification Form, has been designated by the Service as the form to be used in complying with the requirements of this section. ...	
18 USC §242 and 42 USC §1983 provides that: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."	
Public Domain—Privacy Form P-3 (02) 2000	

Dealing With the I.R.S Form W-4

As explained earlier, most employers believe you have a legal obligation to complete an Internal Revenue Service Form W-4 and will threaten to withhold from your paycheck as though you are a single person without one. This issue is best handled by using the appropriate samples from "Sample Letters and Forms" on page 209 and sending that notice to your employer's legal or accounting department. You may also find the "Voluntary Withholding Agreement" on page 224 helpful.

Dealing With Rejection

Living unenumerated mean that you will endure more rejection than most other people. There are several options available to you when you are rejected by an employer.

Forget it and Move on

Although our first instinctive response is to protect ourselves and get even, it is not always the best or wisest choice. The first option we should always consider is to simply forget it and

move on with life. Although being fired from a job simply because you choose to live unenumerated is neither fair nor legal, simply forgetting it and moving on with things is the easiest and less stressful way of dealing with it. Certainly we can sue the people who treat us unjustly or unlawfully, but suing takes a lot time, energy and resources. Litigation seldom results in the outcome we hope for and usually just adds to make the situation more stressful.

File Criminal Charges

Many times the unenumerated are unknowingly victims of a crime. The most notable example of this is when someone tells you that you must have, or you must provide a social security number because it is the law. Most often the statement that “it is the law” is a criminal violation of the law, which if proven, could subject the person who said it to fines and jail.

For example 18 USC §242 and 42 USC §1983 provides that:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States,... shall be fined under this title or imprisoned not more than one year, or both;
42 USC §1983 further provides that a violator “shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

And 42 USC §408 provides that:

Whoever... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.

If these crimes are committed against you, and you can prove it, then you need to talk to your local district attorney about filing a criminal complaint. If your evidence has merit, then the local district attorney is legally obligated to pursue the case.

Sue for Violating Your Rights or for Discrimination

Civil litigation is the most common route taken by people who wish to assert their legal right to work in the United States unenumerated. There are two ways to pursue this course. The first is to file a complaint with Equal Employment Opportunity Commission for discrimination based upon some protected right such as freedom of religion.

Filing a Charge With the Equal Employment Opportunity Commission

If you believe you have been discriminated against by an employer, labor union or employment agency when applying for a job or while on the job because of your race, color, sex, religion, national origin, age, or disability, or believe that you have been discriminated against because of opposing a prohibited practice or participating in an equal employment opportunity matter, you may file a charge of discrimination with the United States Equal Employment Opportunity Commission.

Charges may be filed in person, by mail or by telephone by contacting the nearest Equal Employment Opportunity Commission office. If there is not an Equal Employment

Opportunity Commission office in the immediate area, call toll free 800-669-4000 or 800-669-6820 (TDD) for more information. To avoid delay, call or write beforehand if you need special assistance, such as an interpreter, to file a charge.

There are strict time frames in which charges of employment discrimination must be filed. To preserve the ability of Equal Employment Opportunity Commission to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, adhere to the following guidelines when filing a charge.

Title VII of the Civil Rights Act charges must be filed with Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act. However, in states or localities where there is an antidiscrimination law and an agency authorized to grant or seek relief, a charge must be presented to that state or local agency. Furthermore, in such jurisdictions, you may file charges with Equal Employment Opportunity Commission within 300 days of the discriminatory act, or 30 days after receiving notice that the state or local agency has terminated its processing of the charge, whichever is earlier. It is best to contact Equal Employment Opportunity Commission promptly when discrimination is suspected. When charges or complaints are filed beyond these time frames, you may not be able to obtain any remedy.

Facts About Religious Discrimination

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. The Act also requires employers to reasonably accommodate the religious practices of an employee or prospective employee, unless to do so would create an undue hardship upon the employer (see also 29 CFR §1605). Flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers are examples of accommodating an employee's religious beliefs.

Employers cannot schedule examinations or other selection activities in conflict with a current or prospective employee's religious needs, inquire about an applicant's future availability at certain times, maintain a restrictive dress code, or refuse to allow observance of a Sabbath or religious holiday, unless the employer can prove that not doing so would cause an undue hardship.

An employer can claim undue hardship when accommodating an employee's religious practices if allowing such practices requires more than ordinary administrative costs. Undue hardship also may be shown if changing a bona fide seniority system to accommodate one employee's religious practices denies another employee the job or shift preference guaranteed by the seniority system.

An employee whose religious practices prohibit payment of union dues to a labor organization cannot be required to pay the dues, but may pay an equal sum to a charitable organization.

Mandatory “new age” training programs, designed to improve employee motivation, cooperation or productivity through meditation, yoga, biofeedback or other practices, may conflict with the non-discriminatory provisions of Title VII. Employers must accommodate any employee who gives notice that these programs are inconsistent with the employee's

religious beliefs, whether or not the employer believes there is a religious basis for the employee's objection.

Going on Your Own

While starting your business or being self-employed is difficult for many of us, it is probably the easiest and least stressful alternative for the unenumerated to consider. One of the greatest blessings of living in America is all of the fantastic opportunity available to anybody who has a little bit of imagination, a lot of drive and self-discipline and who is willing to work hard for their own personal reward.

For a lot less energy than the unenumerated spend trying to educate prospective employers, dealing with the rejection and considering their options, most of us can begin a new career by discovering a special market niche in our community and filling it. It may be as simple as marketing your professional talents as a consultant, or perhaps you may have been thinking about changing careers, providing paralegal services or doing landscape maintenance. If you have some cash set aside, maybe its time to open a small store or shop.

There are many very good books available for people who are thinking about going it on their own. We recommend that you visit your local book store and review some of these. Starting your own business is a very important decision that should be studied carefully. If done right it will be the most personal and financially rewarding experience of your life.

Individual Taxpayer Identification Number

A final note for this section is a scam warning. Many promoters suggest that you can get around the social security number issue by claiming they are not citizens of Washington, D.C. and are therefore aliens in the view of federal law. Without trying to explain their logic, they further assert that an alien individual should in fact obtain and use an Individual Taxpayer Identification Number instead of a social security number.

Their assertion is simply wrong. The Individual Taxpayer Identification Number (ITIN) is a tax processing number that became available July 1, 1996, for certain nonresident and resident aliens, their spouse and dependents. The Individual Taxpayer Identification Number is only available to individuals who cannot get a social security number.

The Individual Taxpayer Identification Number is not applicable since any citizen of any State, living in the United States can apply for and receive a social security number.

Financial Issues

Financial institutions are tightly regulated by federal law (primarily United States Code Title 12, *Banks and Banking*, and Title 31, *Money and Finance*) and often refer clients to various laws and regulations as their reason for doing or not doing certain things. When an unenumerated citizen attempts to enter a relationship with a financial institution they are usually rejected because the institution wrongly believes that federal law requires them to obtain a social security or taxpayer ID number from each customer. Financial institutions usually respond with a canned statement such as:

31 CFR 103.34 and 26 USC 6109 require that you provide your social security number when opening an account. Additionally, according to instructions published in the Federal Register (37 FR 13270, 37 FR 26517, 38 FR 3341 and 39 FR 32336), financial institutions are required to obtain your social security number before opening an account.

However, getting away with such claims tends to also mean that financial institutions rely heavily upon the naiveté and gullibility of customers and bankers' ability to intimidate customers with legal citations. When challenged more specifically the bankers often turn to their 3-volume legal reference published by the Federal Deposit Insurance Corporation called *FDIC Law, Regulations and Related Acts* where we read:

8000 - Miscellaneous Statutes and Regulations

Department of the Treasury Instructions Relating to Taxpayer Identification Numbers
Financial Recordkeeping and Reporting of Currency and Foreign Transactions

Instructions Relating to Taxpayer Identification Numbers

On June 30, 1972, instructions were issued on this subject and published in the Federal Register (37 FR 13279 (1972)). These procedures have been revised in accordance with amendments to the regulations issued on December 8, 1972, and published in the Federal Register (37 FR 26517 (1972)).

With respect to each deposit or share account opened after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, each bank, savings and loan association, building and loan association, credit union, or broker or dealer in securities must, within 45 days from the date the account is opened, secure and maintain a record of the taxpayer identification number of the person maintaining the account.

For individuals, the taxpayer identification number is his social security number. For corporations, partnerships, and other entities it is the IRS employer identification number. If an account is opened in more than one individual's name, the financial institution is required to secure and maintain the social security number of at least one individual having a financial interest in that account.

In determining the proper identification number to be obtained for accounts opened in more than one name, the financial institution should follow the regulations and rulings issued by the Internal Revenue Service under section 6109 of the Internal Revenue Code. The following guidelines have been issued by IRS under that section:

With respect to accounts opened for trusts, charitable organizations, clubs and similar entities the financial institution should secure the employer identification number of the entity. An employer identification number should be obtained for this purpose even though an organization might not otherwise require one.

A taxpayer identification number need not be secured in the following instances: (i) Accounts for public funds opened by agencies and instrumentalities of Federal, State, local or foreign governments, (ii) accounts for aliens who are (a) ambassadors, ministers, career diplomatic, or consular officers, or (b) naval, military or other attaches of foreign embassies and legations, and for the members of their immediate families, (iii) accounts for aliens who are accredited representatives to international organizations entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. Sec. 288), and for the members of their immediate families (a list of such organizations appears in title 19, section 148.87 (formerly section 10.30a), Code of Federal Regulations), (iv) aliens temporarily residing in the United States for a period not to exceed 180 days, (v) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program supervised or conducted by any agency of the Federal Government, (vi) unincorporated subordinate units of a tax-exempt central organization which are covered by a group exemption letter, (vii) interest-bearing accounts maintained by a person 18 years of age opened as part of a school thrift savings program, provided the annual interest does not exceed \$10, and (viii) Christmas Club, vacation club, and similar installment savings programs provided the annual interest does not exceed \$10. In instances (vii) and (viii), the bank shall, within 15 days following the end of any calendar year in which the interest accrued in that year exceeds \$10, use its best efforts to secure and maintain the appropriate taxpayer identification number or application form therefor.

If the customer does not have a social security number or is unaware of his number, he can authorize the Social Security Administration to furnish his identification number to the financial institution. This authorization may be printed or stamped on the back of Form SS-5 (Application for Social Security No.), in the space immediately above the legend, "For Bureau of Data Processing and Accounts Use". The authorization must contain the following language:

Please furnish my SSN to:

NAME _____

ADDRESS _____

SIGNATURE _____

The customer should complete Form SS-5 and sign the statement on the back of the form. The financial institution should mail the completed form to the Social Security Administration in the preaddressed envelope provided and retain a copy (duplicate or photocopy) of the application until the number is received.

The Social Security Administration does not require the Form SS-5 or the authorization statement to be signed by a parent or guardian even though the customer is under 18 years of age.

A similar procedure may be used to obtain employer identification numbers. Upon proper authorization by the applicant on the back of part 2 on the first page of Form SS-4 (Application for Employer Identification No.), the IRS will furnish the employer identification number to both the applicant and the financial institution.

Financial institutions may obtain supplies of Form SS-5 and preaddressed envelopes from their nearest Social Security Office, and supplies of Form SS-4 and preaddressed envelopes from any Internal Revenue Service Center or district office.

In the event that a financial institution has been unable to secure the identification required herein with respect to an account within the 45-day period specified, it shall nevertheless not be deemed to be in violation of this requirement if (i) it has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to {{6-30-98 p.9597}} secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him.

A reasonable effort to obtain a taxpayer identification number should include the mailing of a written request. The request should inform the customer that the bank is required to maintain, for the use of the Department of the Treasury, a list of customers who have failed to supply the bank with a TIN within the 45-day period.

The 45-day period provided for shall be extended where the customer has applied for an employer identification number or social security number on Form SS-4 or SS-5 until such time as the customer has had a reasonable opportunity to secure the number and furnish it to the institution.

Dated: January 30, 1973.

[Source: 38 Fed. Reg. 3341, February 5, 1973]

Treasury Notice of Revision of Instructions

On January 31, 1973, instructions were issued on this subject and published in the Federal Register (38 FR 3341 (1973)). These instructions have been revised, herein, to reflect changes in Social Security Administration procedures governing the issuance of social security numbers.

The Social Security Administration now generally requires evidence of age, citizenship, and identity of applicants for social security numbers. Therefore, the Social Security Administration will no longer honor requests for numbers by financial institutions on behalf of customers.

Financial institutions must, within forty-five days after an account is opened, secure and maintain a record of taxpayer identification numbers of customers opening share or deposit accounts after June 30, 1972. For individuals, the taxpayer identification number is his social security number. If an account is opened in more than one individual's name, the financial institution should secure and maintain the social security number of at least one individual having a financial interest in that account. For corporations, partnerships, and other entities, it is the IRS employer identification number. Instances in which a taxpayer identification number need not be secured remain as printed in the Federal Register (38 FR 3341 (1973)).

If a financial institution has been unable to secure the required identification number within the forty-five day period, it shall be in compliance with this requirement if (i) it has made a reasonable effort to secure the number, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons for whom it has been unable to secure an identification number and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him.

A reasonable effort to obtain a taxpayer identification number should include the mailing of a written request. The request should inform the customer that the bank is required to maintain, for the use of the Department of the Treasury, a list of customers who have failed to supply the financial institution with a TIN within the forty-five day period.

Dated: August 30, 1974.

[Source: 39 Fed. Reg. 32336, September 6, 1974]

While this is an interesting historical reference, it is not the law and reliance upon it as law is dangerous. Immediately after being published in the Federal Registers, these regulations were also published in the Code of Federal Regulations. When citing laws and regulations bankers would be wise to refer to a current copy of the United States Code or the Code of Federal Regulations where the statute reflects the currently enforceable laws and regulations.

However, the above historical information copied from the Federal Register more than twenty years ago and the current regulation both reflect the requirement that the financial institution must request a social security number or taxpayer ID number when opening an account and that the financial institution is not in violation of the law or regulation if they made a reasonable effort to get an identity number.

Additionally, you should note that the *FDIC Law, Regulations and Related Acts* also contain the following Privacy Act notification:

8000 - Miscellaneous Statutes and Regulations

Findings and purpose of the "Privacy Act of 1974." Section 2 of the Act of December 31, 1974 (Pub. L. No. 93-579; 88 Stat. 1896), which enacted section 552a of title 5, United States Code, provides as follows:

SEC. 2. (a) The Congress finds that—

- (1) The privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;
 - (2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;
 - (3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;
 - (4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and
 - (5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.
- (b) The purpose of this Act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—
- (1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

- (2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;
- (3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;
- (4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;
- (5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and
- (6) be subject to civil suit for any damages which occur as a result of willful or intentional action which violates any individual's rights under this Act.

Disclosure of social security account numbers. Section 7 of the Act of December 31, 1974 (Pub. L. No. 93-579; 88 Stat. 1909), effective December 31, 1974, provides as follows:

SEC. 7. (a)(1) 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 individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to--

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

This portion of the law remains intact and is codified in the current United States Code in several places including, a specific application to the banks and financial institution:

31 USC §1.32 Use and disclosure of social security numbers

(a) In general. An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number.

(b) Exceptions. The provisions of paragraph (a) of this section shall not apply with respect to:

(1) Any disclosure which is required by Federal statute, or

(2) The disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(c) Requests for disclosure of social security number. Any component which requests an individual to disclose his or her social security account number shall inform that individual whether:

- (1) Disclosure is mandatory or voluntary.
- (2) By what statutory or other authority such number is solicited, and
- (3) What uses will be made of it. (See section 7 of the Privacy Act of 1974 set forth at 5 U.S.C. 552a, note.)

This law clearly states that in the matter of money and finance that “An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number.”

A new area of law that the banks and financial institutions are attempting to enforce, is the requirement that the federal government has put upon the States to create laws that are beyond the legal limits of Congressional authority. That is, Congress is attempting to force the States to do that which they cannot legally do themselves. Of course, they neglect to recognize that if the federal Congress cannot do it, then the State cannot do it either. However, regardless of the Constitutional authority, or lack thereof, these new laws are causing additional difficulty for the unenumerated.

42 USC §666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

(a) Types of procedures required

(17) Financial institution data matches. –

(A) In general. – Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State –

(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

However, this section only defines a *procedures* under which the State agency shall enter into agreements with financial institutions. It contains no provisions for collecting or requiring identification numbers from customers.

Financial institutions also frequently cite 26 USC §6109 as their reliance for the social security number mandate:

26 USC §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 his 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.

This law requires the financial institution to request from certain customers that they include that identifying number on applicable returns. The law also states that a customer “shall furnish to such other person [the financial institution] such identifying number as may be prescribed.” This confusing statement does not demand a customer to furnish an identifying number (see definition for *shall* at beginning of this manual), but is instead telling the customer which number he shall use, should he choose to furnish it. There is no mandate within this section requiring a customer to obtain a social security number so he can provide it to the financial institution and there is no requirement for an unenumerated person to provide a social security number.

Additionally, the Internal Revenue Code and regulations do not contain an absolute requirement that any financial institution must provide the customer’s social security number to the Internal Revenue Service. The regulation interpreting 26 USC §6109 provides:

26 CFR §301.6109-1(c)

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, statement, or other documents to the Internal Revenue Service so stating.

The applicable federal statute and regulation place a duty on the financial institution to *request* a taxpayer identifying number from the customer. However, after *requesting* the number, if the financial institution is still unable to obtain an identifying number from the customer, then the financial institution only needs to include an accompanying affidavit stating that the request for the number was made.

Until December 1989, 26 U.S.C. §6676 (1989), set forth the penalties for failing to supply the Internal Revenue Service with the identifying number. This section states that a \$50.00 penalty will be imposed for failure of an employer to provide an identifying number on any document filed with the Internal Revenue Service unless it is shown that the failure is due to reasonable cause and not willful neglect. The regulation interpreting the statute provides:

26 CFR §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.

The *Omnibus Budget Restoration Act of 1983* (Pub. Law 101-239, Title VII, Section 7711(b)(1)), repealed Section 6676 of the Internal Revenue Code effective for statements or documents filed after December 31, 1989. Since December 31, 1989, Code Section 6723 has governed the failure to comply with information reporting requirements. Section 6723 provides that a penalty of \$50.00 shall be assessed for each failure to comply with a reporting requirement. However, 26 USC §6724, provides for a waiver of any penalties assessed under the code upon a showing of reasonable cause. Section 6724(a) provides:

26 USC §6724(a)

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.

Therefore, the Code and regulations mandate a payer only to *request* the identifying number of the employee or 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, upon the filing of an affidavit with the Internal Revenue Service stating that a request for the payee's identifying number was made.

Banking

As explained above, current federal regulations require financial institution and some other businesses to request social security numbers or taxpayer ID numbers from their customers. The law clearly does not require the customer to disclose or provide that information. Furthermore, the law waives penalties if the financial institution shows that absence of the number is due to reasonable cause and not willful neglect. As you review each provision of law where a financial institution is required to request a taxpayer ID number or social security number, we find that the law provides for customers who may not have or not wish to disclose such number.

Financial Transaction Involving Currency of More than \$10,000

Any financial institution or casino which does a currency transaction of more than \$10,000 is expected to obtain the identification of the person making that transaction. 31 CFR §103.28 defines that requirement as follows:

31 CFR §103.28 Identification required.

Before concluding any transaction with respect to which a report is required under Sec. 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity on whose behalf such transaction is to be effected. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a Provincial driver's license with indication of home address). Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (e.g., a drivers license or credit card). A bank signature card may be relied upon only if it was issued after documents establishing the identity of the individual were examined and notation of the specific information was made on the signature card. In each instance, the specific identifying information (i.e., the account number of the credit card, the driver's license number, etc.) used in verifying the identity of the customer shall be recorded on the report, and the mere notation of "known customer" or "bank signature card on file" on the report is prohibited.

Note, that this regulation does not require a social security number. This section simply states that the "institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any," The term "*if any*" correctly acknowledges that the person may not have, or may not choose to provide a social security number. However, if that person does provide a social security or taxpayer identification number, then the financial institution is required to record it.

Purchase of Bank Checks or Drafts for \$3,000 or More

Federal regulations, 31 CFR §103.28 requires that "No financial institution may issue or sell a ... check ... for \$3,000 or more ... unless it maintains records of the following ... (2) If the purchaser does not have a deposit account with the financial institution: (i)(A) The name and address of the purchaser; (B) The social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number".

This regulation seems to imply that a financial institution is prohibited from selling checks to customers without social security numbers unless they are aliens. Many financial institutions regard this as their statutory mandate and illegally refuse to sell checks to unenumerated customers. Financial institutions need to read and implement the recording

requirements directed in 31 CFR §103.28. As an unenumerated customer, you may need to point this out occasionally. That regulation provides, in part:

... the originator's bank shall obtain and retain a record of the name and address, the type of identification reviewed, the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. ...

This regulation is the legal recording requirement that a financial institution must comply with. Note that the financial institution is specifically required to make *a notation in the record of the lack thereof* if you do not have or provide a taxpayer identification number (social security or employer identification number).

Brokerage Accounts

Brokers or dealers are required to ask their customers for social security numbers. However, 31 CFR §103.35 provides that they are not “deemed to be in violation of this section if: (i) [they have] made a reasonable effort to secure such identification”

For legal protection, brokers and dealers should obtain a signed statement from their unenumerated customers verifying that they requested the number but were unable to obtain it. Additionally as an unenumerated customer, you should be willing to offer such a statement.

Certificate of Deposit Accounts

Most banks are very reluctant to open a deposit account for unenumerated customers because they wrongly believe that Federal regulations require them to record taxpayer identification numbers for each customer. They often cite 31 CFR §103.34 as the mandate requiring them to obtain, thus requiring you to provide a taxpayer identification or social security number.

31 CFR §103.34 Additional records to be made and retained by banks.

(a)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, or each deposit or share account opened with a bank after June 30, 1972, a bank shall, within 30 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 30-day period specified, the required identification, it shall nevertheless not be deemed to be in violation of this section if

- (i) it has made a reasonable effort to secure such identification, and
- (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b) (11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction. Where a person is a non-resident alien, the bank shall also record the person's passport number or a description of some other government document used to verify his identity.

Certainly banks are required to ask their customers for taxpayer identification or social security numbers. However 31 CFR §103.34 also provides that the bank is not “deemed to be in violation of this section if: (i) it has made a reasonable effort to secure such identification”

For legal protection, banks should obtain a signed statement from their unenumerated customers verifying that they requested the number but were unable to obtain it. Additionally as an unenumerated customer, you should be willing to offer such a statement.

Checking Accounts

There are no regulatory requirements for obtaining taxpayer identification or social security numbers for checking accounts. However, it is reasonable to expect the banks to request a social security number or TIN when opening a checking or deposit account. However, there is no requirement for a customer to provide a social security number.

Proof of Reasonable Effort to Secure Identifying Numbers

It is prudent that every business develop proof that it complied with various requirements to ask customers for, and was unable to obtain, a social security number. The following form (or similar) should be used with those customers for their signature:

Form P-1	Reasonable Cause Affidavit by Payor For Not Obtaining Payee's Identifying Number ► Release From Penalty—26 U.S.C. §6724(a)	
Employer's/Payor's name and address Wells Fargo Bank, 512 Broadway, King City, CA 93930		Employer identification number 37 4872301
Employer/Payor statement: I, <u>Cynthia Lewis</u> , being an officer of <u>Wells Fargo Bank</u> , hereby state that I have asked for the identifying number of the employee/payee, <u>George Williamson</u> , who has declined to provide an identifying number. I am filing this affidavit in accordance with 26 USC 6724, waiver of penalty (26 USC 6724(a)) assessed under the code upon a showing of reasonable cause, and Treasury Regulation 301.6109-1(c).		
I certify that the information stated here is correct and that I asked the employee/payee for a taxpayer ID number (Social security number) and that the employee/payee declined to provide such number. Employer/Payor signature ► <u>Cynthia Lewis</u> Cynthia Lewis Date ► <u>Sept 18, 1999</u>		
Employee/Payee information		
Type or print employee/payee first name and initial George Williamson		Social security number (write "None" if you do not have a SSN or "Declined" if you do not wish to provide a SSN) NONE
Home address (number and street or rural route) 812 North 3rd Street		Employee/payee statement: I, <u>George Williamson</u> have declined to provide an identifying number to my employer/payor, <u>Wells Fargo Bank</u> .
City or town, State and ZIP code San Ardo, Calif.		
I certify that the information stated here is correct and the employer/payor did ask me for a taxpayer ID number (social security number) and that I declined to provide such number. Employee/payee signature ► <u>George Williamson</u> George Williamson Date ► <u>9/28/99</u>		
26 USC §6724, waiver of penalty (26 USC §6724(a)) assessed under the code upon a showing of reasonable cause, and Treasury Regulation 301.6109-1(c) Treasury Regulation 301.6109-1(c) provides: "... When the person filing the return statement, or other document does not know the SSN 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. A payor is required to request the identifying number of the payee. If after such request has been made, the payee does not furnish the payor with an identifying number, the penalty (\$50.00) will not be assessed against the payor, if it is shown that such failure is due to reasonable cause and not willful neglect. [See also 26 USC §6724, waiver of penalty (26 USC §6724(a)) assessed under the code upon a showing of reasonable cause.]		

Public Domain—Privacy Form P-1 (02) 1999

Opening an Account

Nearly any bank will allow customers to open the so-called no/low-interest "Christmas accounts" that are used for saving small sums of money for Christmas shopping or some other special day. Additionally, parents, or children can open a child's savings account or college fund account without providing social security numbers.

While, these accounts have their purposes, they are not primarily the kinds of accounts that most unenumerated people want to open. Many of us also have serious banking needs just like other people in our American society. However, one of the problems is that the banking industry has joined, in a way, with the government in attempting to force people into

enumeration. You are going to find that it is difficult to open an account without a social security number or TIN; difficult, but not impossible, if you are persistent.

Many people take the hard-nosed approach of trying to force a bank into opening an account without a social security number. They go into the bank, fill out the application, leave the social security number field blank, or write *NONE* in the space, and then get angry when the application is rejected. They do all of this without ever having a constructive conversation with the bank manager first. Usually this rejection is not primarily because they didn't provide a social security number, but instead because the bank interpreted them as a security risk. Banks do have a real concern about security and the trustworthiness of their customers and you should respect that concern since they will soon be holding your money in trust. Obviously, it would be tragic if they were to give your money to somebody who was impersonating you.

The Nice-Guy Approach

There are primarily two reasons for beginning with this approach. First, it occasionally does work, thus eliminating the need for other action and you need to establish some degree of trustworthiness anyway. Secondly, the bank or its manager is more likely to provide you with the evidence that you will need should you decide to challenge them more seriously.

If your banking needs are not great, for example you only need an account so you can cash checks without incurring a check-cashing charge, or you want to open a secured credit card or debit card account, then you might simply visit the bank and talk with the branch manager. Before filling out any paper work, simply explain to the person that you do not have a social security number and would like to open an account that covers your simple needs, and would like their advice on how the bank might help you. This direct, honest approach will often yield an account that fills your need.

If you need an account because you have a lot of money, don't worry about it, the bank will do everything in its power, even waiving its policy to attract your business. Such accounts usually involve a balance of \$15,000 or more ... and the more the better. This is particularly true if you are an established business person in your community.

The opening-an-account problems normally occur with the average person who deposits his paycheck and uses a checking account to pay bills and do shopping. Banks and other financial institutions are creatures of habit, and the habit for determining trustworthiness is doing a credit check using your name and social security number. The absence of a credit report, combined with the absence of a social security number is a "red flag" to most bankers and they simply choose to avoid you because they think there is something seriously wrong.

A social security number is not necessary for a good credit history report from the major credit reporting companies. If you are unenumerated or you've been resisting disclosure of a social security number, you may have a credit history file that does not include a social security number ... letting the banker know that, will go well in your favor.

Establishing trust with a banker when you have no social security number and no credit history will be difficult. The first problem that bankers have is that they normally don't believe you when you say you have no social security number. That initial doubt is quickly overcome if you have a credit history that does not include a social security number. In the

absence of a credit history, you will need to talk to the manager or operations manager about establishing trustworthiness in some other way. Showing trustworthiness is one key to opening the account you need.

If your application for an account is rejected (it most likely will be), it is important that you remain polite and wishful. Your niceness remains important because we need the bank to document the reason they rejected your application. Therefore, you need to follow-up with a letter to the branch manager so that the bank will state their reason for rejecting your applications. You may use the sample letter “First Response to Account Rejection” on page 237. (Note, it is important that you do not include your telephone number on any letters. This prevents them from calling you and forces them to write any reply.)

The bank’s branch manager should reply to your letter by listing the items you need to correct in order to open the account. Additionally, they should expand upon their reason for demanding a social security number. Usually they will include something such as the following:

Federal regulations require that we obtain a social security number or tax identification number for many types of accounts, such as bank deposit accounts that pay interest.

Get a little Tougher

In this phase we will challenge the financial institution’s reason for denying you an account. Generally, their reason relies upon one of the following assertions:

- Law – The financial institution will state that federal law requires customers doing business with them to disclose a social security number.
- Policy – The financial institution will state that it is their policy to require all customers doing business with them to disclose a social security number.

Sometimes their reason will combine both a policy and legal statement.

Their reason for rejecting our application determines what we say next. If it is simply a “it’s our policy” kind of rejection, then we challenge them with the privacy act. However if they base their rejection on law, then we will also do a privacy act challenge and we will add an “under color of law” violation warning.

Challenging Their Assertion of Law

Attempting to trick or intimidate somebody into doing what you wish by telling them that it is the law, when it is not the law, is a felony. It is legal to tell someone to do something without reason, but is illegal to tell somebody that they must do something because a nonexistent law requires them to do it. For example, I can legally say to you “you must get a social security number.” But, I cannot legally say to you “you must get a social security number; it’s the law and you will go to jail if you don’t get one.” In the first example, I simply told you, without giving any reason, to get a number. However, in the second example I attempted to intimidate you into getting a number by lying about the law. Federal law makes it a crime to trick you “under color of law” into doing something that you are not required to do.

18 USC §245 provides criminal penalties for prohibiting a person, under *color of law*, from freely enjoying the benefits of being a citizen.

18 USC §245. Federally protected activities

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from

(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

(C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;

(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations

shall be fined under this title, or imprisoned not more than one year, or both;

18 USC §242 provides criminal penalties for prohibiting a person, under *color of law*, from freely enjoying the benefits of being a citizen because of the race or religious beliefs. This is important because many people's objection to a social security number is based on their religious belief that it is a type of "mark."

18 USC §242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both

42 USC §1983 provides civil penalties for prohibiting a person, under *color of law*, from freely enjoying the benefits of being a citizen.

42 USC §1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

It should be clearly obvious that it is not only against the law to use the *color of law* when attempting to get people to do what you want, but it is also foolish since it could result in serious fines and imprisonment.

Most bank managers are reasonably aware that 31 CFR §103.34 requires them to request a social security number from customers. However, few of them are aware that the same law does not require a customer to provide the number and that the law actually provides for the likelihood that many customers will not give them the number they request. It is legally proper for a financial institution to say "I am required by law to ask you for a social security number." It is asserting illegally, under the color of law to say "the law requires you to provide a social security number."

When a financial institution rejects our application for an account based upon the incorrect idea that the law requires us to give them a social security number, then they may be attempting to intimidate us “under the color of law” into giving them what the law does not actually require. When this happens we need to send them a letter similar to the “Second Response – Compliance with Law” on page 239 and attach a copy of the following notice.

Form	COL Violation Warning Denial of Rights Under Color of Law ► Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983	
Name and address of Citizen Mary Coppersmith 37 Cyprus Carmel, Calif.	Name and address of Notice Recipient Windy Seaman Bank of America 85 Carmel Valley Road Carmel Valley, CA 93923	
Citizen's statement: Recipient Windy Seaman, demanded I provide a social security number before providing service. Windy stated that it was “required by law.”		
I certify that the forgoing information stated here is true and correct. Citizen's signature ► <i>Mary Coppersmith</i> Mary Coppersmith Date ► 9/24/99		
Legal Notice and Warning Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages. Attempting to cause a person to do something by telling that person that such action is required by law, when it is not required by law, may be a felony. 18 USC §242 provides that whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States ... shall be fined under this title or imprisoned not more than one year, or both. 18 USC §245 provided that Whoever, whether or not acting under color of law, intimidates or interferes with any person from participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; [or] applying for or enjoying employment, or any perquisite thereof, by any agency of the United States; shall be fined under this title, or imprisoned not more than one year, or both. 42 USC §1983 provides that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. Warning, you may be in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! Also understand that the law provides that you can be held personally responsible and liable, as well as your company or agency. You are advised to cease and desist with your demand and to seek <i>personal</i> legal counsel if you do not understand the law.		
Notice of Service: I, <u>Mary Coppersmith</u> certify that I personally delivered this notice to above named recipient and address on <u>9/24/99</u> at <u>11:06am</u>		

Public Domain—Privacy Form COL(01)

Since the general concept of American law allows for people to occasionally make mistakes, this letter and notice advises people of the possible violation. They can now offer to correct the violation by allowing you the account you seek, or they can stand-fast, now knowing that they are acting in violation of law. Include with this letter the copies of the two notices shown under “Challenging Their Policy”, as follows.

Challenging Their Policy

A financial institution, or any business for that matter, cannot implement or enforce policy that is contrary to law. They also cannot enforce policy based on the pretense of law, when there is no such law. For example, attempting to enforce a policy that requires customers to disclose a social security number because of the mistaken belief that everybody has (or is required to have) a social security number is contrary to the law. Such policy is based on the pretense of law – because there is no law requiring a customer to have a social security number in the first place.

Therefore, we need to challenge the financial institution's policy against having unenumerated customers. Use the "Second Response – Privacy Act Notice" letter on page 238 as a model and attach a copy of the following "Constructive Notice" and a copy of the "Citizen's Assertion of Legal Right to withhold disclosure of SSN." This serves to notify the financial institution that their policy violates the law and it violates your rights. These will normally be passed along to their legal department very quickly and will usually result in a letter to you. Since their other option was to ignore you, such a letter, no matter how arrogant, is a positive indication that the legal department wants to negotiate. If you take the simple approach of "I understand and appreciate your concern, but I need to establish an account and I would really like to do that with your bank ... what must we do to accomplish this?" you will usually find them ready to make an offer. It probably won't be the account you envisioned, but it will be an opening in the door that, in time, will allow you to open the account that you actually want. Be reasonable, persistent and patient and you will succeed.

Serving Constructive Notice

The *Constructive Notice* serves to advise the financial institution that you are aware of your rights and that you are preparing to assert them. The notice also advises the financial institution that an alternative does exist.

CONSTRUCTIVE NOTICE

To: (Person being served) Windy Seaman	Date: 9/24/99
Of: (Name and address of Institution) Bank of America 85 Carmel Valley Road Carmel Valley, CA 93923	
This instrument serves notice to the person and/or business, agency, corporation or other entity that the below named Citizen does not have and/or refuses to disclose a social security number. This Right is protected under the First, Fourth, Fifth, Ninth, and Tenth amendments to United States Constitution and provisions of the Privacy Act. The Privacy Act makes it unlawful to require an individual to disclose or furnish a social security number for any purpose, unless the disclosure or furnishing of the number is specifically required by law. The federal courts have ruled that private sector solicitors may not obtain social security numbers until they comport their solicitations to comply with disclosure requirements of the Privacy Act, including informing customers of the voluntary nature of such disclosure, the source of authority for requesting such disclosure, and possible uses to which disclosed numbers might be put. <i>Yeager v. Hackensack Water Co.</i>, 615 F.Supp. 1087 (1985). Any person who is found violating the rights of a Citizen may be subject to the damages sustained by the individual and the costs of the action together with attorney fees. See <i>Doyle v. Wilson</i>, 529 F.Supp. 1343 (1982). Violation of 18 USC §§241, 242; 42 USC §§1983, 1985 1986 shall subject you personally and may also subject you to fines of up to \$10,000.00, and imprisonment for up to ten years, or both. Federal regulations provide you an alternative, 26 CFR §§31.6011, 301.6109 and 31 CFR §§103.28, 103.34, 103.35, employers, banks and payers are required to ask for the social security number, but they shall not be in violation of this requirement if they have made a reasonable effort to secure such identification and are unable to secure the information. Your policy must comply with the law and cannot violate the law or the Rights of Citizens. Compliance with the Law and this Citizen's intent, as expressly evidenced and implied by this document, is demanded. Noncompliance with this Notice and Demand shall result in the filing of a formal complaint with the appropriate State and federal agencies against the above named and/or representative(s).	
Constructive Notice issued by: Mary Coppersmith <i>Mary Coppersmith</i>	
Representing: Self	
Witness: <i>David Jones</i> David Jones	Date 9/24/99

Public Domain Form CN(02)-1999

Serving Citizen's Assertion of Legal Right

The *Citizen's Assertion of Legal Right to withhold disclosure of SSN* serves to advise the financial institution that you are aware of your rights and that you are preparing to assert them.

Form SSN	Citizen's Assertion of Legal Right to withhold disclosure of SSN
► Public Law—93-579 (Section 7)	
Name and address of Citizen Mary Coppersmith 37 Cyprus Carmel, Calif.	Name and address of Notice Recipient Windy Seaman Bank of America 85 Carmel Valley Road Carmel Valley, CA 93923
Citizen's statement: Recipient Windy Seaman, demanded I provide a social security number before providing service. Windy stated that it was "required by law."	
I certify that the forgoing information stated here is true and correct. Citizen's signature ► <i>Mary Coppersmith</i> Mary Coppersmith Date ► <i>Sept 24, 1999</i>	
Legal Notice and Warning	
Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and can also be held personally liable for civil damages. Federal Law, Section 7 of Public Law 93-579 provides that: "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 individual's refusal to disclose his social security account number." Federal courts have ruled the Privacy Act applies equally to the private sector. Warning, you are in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! The law provides that you can be held personally responsible and liable, as well as your company or agency. There is no law requiring an individual to obtain or use a social security number. Your requirement and/or demand that I provide a social security number to you is a violation of one or more of the following laws: 4 CFR 83.9; 5 USC Sec. 552a; 7 CFR 1.123; 7 USC Sec. 2204g; 14 CFR 1212.604; 17 CFR 249.501a; 19 CFR 118.11; 19 CFR 122.25; 19 CFR 24.5; 24 CFR 5.212; 28 CFR 16.53; 28 CFR 513.31; 28 CFR 700.25; 29 CFR 70a.10; 29 CFR 71.12; 31 CFR 1.32; 31 CFR 501.806; 32 CFR 270.19; 32 CFR 310.20; 32 CFR 311.5; 32 CFR 316.6; 32 CFR 317.20; 32 CFR 323.5; 32 CFR 505.2; 32 CFR 701.108; 32 CFR 806b.9; 38 CFR 1.575; 38 CFR 3.216; 38 USC Sec. 5101; 39 CFR 266.4; 45 CFR Part 801; 47 CFR 0.554; 49 CFR 10.29. You are advised to cease and desist with your demand and to seek <i>personal</i> legal counsel if you do not understand the law.	
Notice of Service: I, <u>Mary Coppersmith</u> certify that I personally delivered this notice to above named recipient and address on <u>9/24/99</u> at <u>11:06am</u>	
42 USC Sec. 408 provides that: "Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both." 18 USC §242 and 42 USC §1983 provides that: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."	

Public Domain—Privacy Form SSN(02) 2000

Getting Tough

If after doing what was suggested in "Get a little Tougher" the financial institution still refuses to open the account you requested, you will need to get tough with them. Getting tough, means that you are going to do one or both of the following:

- Sue them under the provisions of 42 USC §1983 which provides civil penalties for prohibiting a person, under color of law, from freely enjoying the benefits of being a citizen.
- Attempt to have them prosecuted under 18 USC §§242, 245 which provides criminal penalties for prohibiting a person, under color of law, from freely enjoying the benefits of being a citizen.

Either way, you will need to have your evidence very well documented. The financial institution can bring huge legal resources to its defense and is likely to win simply because of its legal bulk. However, if your case is well documented and your evidence is overwhelmingly in your favor, they will seriously consider an *out-of-court*-settlement. Since our goal has always been to open an account, this now becomes a very reasonable and cost effective settlement choice for the financial institution. Be sure to have the settlement contract written by an attorney so that it assures establishment of this account.

Local Credit Union

Credit Unions operate along the idea of a co-op. That is, they serve a certain kind of membership. Each credit union has a membership criteria that each person must meet before they can join. Among these are regional credit unions that serve a community, such as a county or city. The membership requirement for these credit unions is that you are a resident of the community. They cannot, and normally will not, attempt to reject your enrollment since you meet the membership requirement by living in the community. They will ask you for a social security number, but they cannot reject your application simply because of your failure to provide one unless they have written that as a requirement into their charter ... few credit unions write that requirement into their charter because they mistakenly assume that everybody has a social security number. Local credit unions can provide an excellent alternative for your banking needs.

Check Cashing

Many financial institutions require people who are cashing checks to have an account with them or to pay a fee for that service. The best way to avoid the service charge is to cash the check at a bank upon which the check is drawn. A check is an order to the bank, by the account holder, to pay this amount of money out of their account on demand of the check. That is, if you present the check to the bank that holds the account, they must pay the face amount of the check, without any service charges. Of course, this assumes that the person who wrote the check has a real account there and funds to cover the check.

Unenumerated citizens who do not have a bank account and do wish to assert themselves aggressively, can still cash checks, free of service fees, by going to the bank (or any of its branches) listed on the check.

Credit

Establishing credit without a social security number is much like opening a bank account without a social security number. Understand that the issue is initially not your lack of a social security number, but rather the lack of established trustworthiness. There are many companies who want to lend you money, but only if they believe that they will get their money, plus interest returned in the manner agreed to. If you can prove that they will get their money back, or provide some valuable collateral, then you will find somebody who will provide you the credit you need.

The key to obtaining credit is having a good credit history file with the major credit reporting companies. The credit reporting companies do not care whether or not you have a social security number, they simply record the information that you provide them along with the information that lenders give them ... that is all they do. You can establish a credit history file without a social security number and having a good credit history file is key to obtaining future credit and to banking.

The easiest places where you can establish new credit is with used car dealers and (overpriced) lay-away jewelry stores. However, if you live in a smaller community, or have an established business in your community, you can normally work with another local business to help you establish the credit report you need. Remember that your initial concern should not be with gaining credit for credit's sake, but getting credit for the purpose of establishing a credit history file that does not contain a social security number. See "Credit Reporting Agencies" on page 92 for more information about credit reports.

Dealing With Federal Agencies

Most Federal agencies ask people for a social security number but do not actually require an identity number from people. There is usually no issue involved when a person declines to provide a social security number to federal agencies.

However, there are a few hard requirements for a social security number that are very difficult, if not impossible to defeat. For example, the most obvious is that a person cannot receive social security benefits without obtaining and using a social security number. Here are a few other examples:

- Section-8 housing assistance
- Food stamps
- Government guaranteed loans
- Student loans
- Federal crop insurance

But even this requirement is not always true because the court has, on occasion, defended an individual's religious right against enumeration. For example, in *Bowen v. Roy*, 476 U.S. 693 (1986), the court ruled that the public interest in maintaining an efficient and fraud-resistant system could be met without requiring a social security number for the child. The court then enjoined the Secretary of Health and Human Services from using and

disseminating the social security number issued in the child's name and also enjoined the federal and state defendants from denying appellees benefits.

Bowen v. Roy, 476 U.S. 693 (1986)—Appellees applied for and received benefits under the Aid to Families with Dependent Children (AFDC) program and the Food Stamp program. They refused, however, to comply with the federal statutory requirements that participants in those programs furnish the state welfare agencies who administer the programs with their Social Security numbers and those of each member of their household as a condition of receiving benefits, and that each state agency utilize those numbers in administering the programs. Appellees contended that obtaining a Social Security number for their 2-year-old daughter would violate their Native American religious beliefs. Thereafter, the Pennsylvania Department of Public Welfare terminated AFDC benefits payable to appellees on the child's behalf and instituted proceedings to reduce the level of food stamps that appellees' household was receiving. Appellees then filed an action in Federal District Court, claiming that the Free Exercise Clause of the First Amendment entitled them to an exemption from the Social Security number requirements, and requesting injunctive and other relief. Following a trial in which it was disclosed that the child had in fact been assigned a Social Security number, the court held that the public interest in maintaining an efficient and fraud-resistant system could be met without requiring a Social Security number for the child. The court then enjoined the Secretary of Health and Human Services from using and disseminating the Social Security number issued in the child's name and also enjoined the federal and state defendants from denying appellees benefits, until the child's 16th birthday, because of their refusal to provide a Social Security number for her.

Selective Service

Selective Service registration is defined in 50 USC §453. As shown below, section (b) directs the registrant to provide “such identifying information (including date of birth, address, and social security account number) as such regulations may prescribe.”

50 USC §453. Registration

(a) Except as otherwise provided in this title (sections 451 to 471a of this Appendix) it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

(b) Regulations prescribed pursuant to subsection (a) may require that persons presenting themselves for and submitting to registration under this section provide, as part of such registration, such identifying information (including date of birth, address, and social security account number) as such regulations may prescribe.

The appropriate regulations for this section are 32 CFR §1615.4 and 32 CFR §1615.6.

32 CFR §1615.4 Duty of persons required to register.

A person required by selective service law to register has the duty.

(a) To complete the Registration Card prescribed by the Director of Selective Service and to record thereon his name, date of birth, sex, Social Security Account Number (SSAN), current mailing address, permanent residence, telephone number, date signed, and signature; and

(b) To submit for inspection evidence of his identity at the time he submits his completed Registration Card to a person authorized to accept it. Evidence of identity may be a birth certificate, motor vehicle operator's license, student's identification card, United States Passport, or a similar document.

32 CFR §1615.6 Selective service number.

Every registrant shall be given a selective service number. The Social Security Account Number will not be used for this purpose.

Registering Without a Social Security Number

The instruction accompanying *Selective Service System Registration Form* states that “If you have a Social Security Account Number, it is mandatory that you include this information.”

Block 2: Mark "X" in the correct box.

Block 3: If you have a Social Security Account Number, it is mandatory that you include this information. If you don't have one, leave this block blank.

Block 4: Print your full legal name as the record, first, middle, last.

Leave item 3 blank if you do not have a social security number or if do not wish to provide a social security number.

Military Service

Most people know that all branches of the United States military and national guard use the social security number as the military service number. What few people realize is that

federal regulations protect recruits and members of the military from divulging a social security number if they choose to keep it private. Executive Order 9397, *Numbering System For Federal Accounts Relating to Individual Persons*, provides that if the individual refuses to disclose his/her social security number, the military activity must be prepared to identify the individual by alternate means. This is codified in regulations 32 CFR §310.20, 32 CFR §505.4 and 32 CFR §806b.9:

32 CFR §310.20—(b) Collecting social security numbers (SSNs). (1) It is unlawful for any federal, state, or local governmental agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN. However, if a federal statute requires that the SSN ... (4) Executive Order 9397, "Numbering System For Federal Accounts Relating to Individual Persons," November 30, 1943, authorizes solicitation and use of SSNs as numerical identifier for individuals in most Federal records systems. However, it does not provide mandatory authority for soliciting SSNs. (5) Upon entrance into military service or civilian employment with the Department of Defense, individuals are asked to provide their SSNs. The SSN becomes the service or employment number for the individual and is used to establish personnel, financial, medical, and other official records. Provide the notification in paragraph (b)(2) of this section to the individual when originally soliciting his or her SSN. After an individual has provided his or her SSN for the purpose of establishing a record, the notification in paragraph (b)(2) is not required ...

32 CFR §505.4—... (c) social security number (SSN). Executive Order 9397 authorizes the Department of the Army to use the SSN as a system of identifying Army members and employees. Once a military member or civilian employee of the Department of the Army has disclosed his/her SSN for purposes of establishing personnel, financial, or medical records upon entry into Army service or employment, the SSN becomes his/her identification number. No other use of this number is authorized. Therefore, whether the SSN alone is requested from the individual, or the SSN together with other personal information, the Privacy Act Statement must make clear that disclosure of the number is voluntary. If the individual refuses to disclose his/her SSN, the Army activity must be prepared to identify the individual by alternate means.

32 CFR §806b.9—(a) Do not deny people a legal right, benefit, or privilege for refusing to give their SSNs unless ... (c) Executive Order 9397, November 22, 1943, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN, but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records.

Prohibited from Requiring a Social Security Number

When you join the military service, if you do not have a social security number or choose not provide a social security number, the military will simply assign you a service number that looks like a social security number.

Passport

A passport is obtained by completing a United States Department of State Form DSP-11, *Application for Passport/Registration* and paying a fee. The form is available through most United States Post Offices.

Item 6 on the form asks for a social security number and refers you to a note on page 2 of the application. The instructions provide that if you have not been issued a social security number, you should enter zeros in the box.

Enter Zeros or Leave it Blank

A social security number is not needed for obtaining a passport. The Item 6 box is included on the application to comply with the Internal Revenue Service requirement to collect taxpayer identification numbers (26 USC §6039E). Assuming all other requirements are met, the Department of State will give you a passport even if you leave this box blank.

26 USC §6039E. Information concerning resident status

(a) General rule

Notwithstanding any other provision of law, any individual who -

- (1) applies for a United States passport (or a renewal thereof), or
- (2) applies to be lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, shall include with any such application a statement which includes the information described in subsection (b).

(b) Information to be provided

Information required under subsection (a) shall include -

- (1) the taxpayer's TIN (if any),
- (2) in the case of a passport applicant, any foreign country in which such individual is residing,
- (3) in the case of an individual seeking permanent residence, information with respect to whether such individual is required to file a return of the tax imposed by chapter 1 for such individual's most recent 3 taxable years, and
- (4) such other information as the Secretary may prescribe.

(c) Penalty

Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty equal to \$500 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(d) Information to be provided to Secretary

Notwithstanding any other provision of law, any agency of the United States which collects (or is required to collect) the statement under subsection (a) shall -

- (1) provide any such statement to the Secretary, and
- (2) provide to the Secretary the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a).

Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence).

(e) Exemption

The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

The law provides for a \$500.00 penalty if you fail to answer this information correctly. However, according to United States General Accounting Office report GGD-98-106, *Nonfiling Among US Citizens Abroad* (May 1998), this is never enforced. On page 3, we read the following:

... First, although IRS obtains passport data from the State Department, it has made little use of this data; and in recent years, IRS has not attempted to penalize the large number of applicants who fail to furnish an SSN, as the law provides. ...

Although the Internal Revenue Service is not currently using this data, be aware that they could begin any time. Also understand, that there is no penalty if a social security number has

not been issued. The Internal Revenue Service has the burden of proof to show that a social security number has been issued.

Internal Revenue Service

The best kept secret in America is that the Internal Revenue Service never contacts or issues correspondence regarding income tax to citizens who do not have, or use, a social security number.

Certainly it is more difficult for the IRS and other government agencies to track people who have no social security number ... which is why they push so hard to get everybody enumerated.

Of course, every American who owes income tax should pay what they owe ... whether they are enumerated or not. Since unenumerated people pay exactly what they owe, they are more responsible and honest than government agencies that perpetuate the fraud, or the people who acquiesce in ignorance.

Any person who does not have a social security number may still pay any income they wish or any income tax that they owe.

... omission of isolated information not seriously hampering the IRS's ability to check a taxpayer's asserted tax liability -- for example, the omission of a taxpayer's social security number or the nondisclosure of the names of one's dependent children -- does not invalidate a return under section 7203. *United States v. Grabinski*, 727 F.2d 681, 686-87 (8th Cir. 1984)

The 31% Withholding Myth

Most people, businesses and banks have been told that they must withhold 31 percent of a payment from a person who does not provide their social security number. Most people, when threatened with a 31% withholding from their pay, quickly give in to the demand that they must provide a social security number. The threat of the 31% assessment is based upon the reading of 26 USC §3406:

26 USC §3406. Backup withholding
(a) Requirement to deduct and withhold

(1) In general

In the case of any reportable payment, if -

- (A) the payee fails to furnish his TIN to the payor in the manner required,
- (B) the Secretary notifies the payor that the TIN furnished by the payee is incorrect,
- (C) there has been a notified payee underreporting described in subsection (c), or
- (D) there has been a payee certification failure described in subsection (d),

then the payor shall deduct and withhold from such payment a tax equal to 31 percent of such payment.

(2) Subparagraphs (C) and (D) of paragraph (1) apply only to interest and dividend payments Subparagraphs (C) and (D) of paragraph (1) shall apply only to reportable interest or dividend payments.

(b) Reportable payment, etc.

For purposes of this section -

(1) Reportable payment

The term "reportable payment" means -

(A) any reportable interest or dividend payment, and

(B) any other reportable payment.

(2) Reportable interest or dividend payment

(A) In general

The term "reportable interest or dividend payment" means any payment of a kind, and to a payee, required to be shown on a return required under -

(i) section 6049(a) (relating to payments of interest),

(ii) section 6042(a) (relating to payments of dividends), or

(iii) section 6044 (relating to payments of patronage dividends) but only to the extent such payment is in money.

(B) Special rule for patronage dividends

For purposes of subparagraphs (C) and (D) of subsection (a)(1), the term "reportable interest or dividend payment" shall not include any payment to which section 6044 (relating to patronage dividends) applies unless 50 percent or more of such payment is in money.

(3) Other reportable payment

The term "other reportable payment" means any payment of a kind, and to a payee, required to be shown on a return required under -

(A) section 6041 (relating to certain information at source),

(B) section 6041A(a) (relating to payments of remuneration for services),

(C) section 6045 (relating to returns of brokers),

(D) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent such payment is in money and represents a share of the proceeds of the catch, or

(E) section 6050N (relating to payments of royalties).

When you consider that TIN means taxpayer identification number and that another section of law defines the TIN as also meaning an individual's social security number, then a quick reading of this section certainly appears to mandate the 31 percent withholding from two categories:

- (A) reportable interest or dividend payment, and
- (B) any other reportable payment

We don't need to review the sections of law defining reportable interest or dividend payment because that section pretty much defines what most of us expect interest and dividend payments to be. Interest from a bank savings account, for example is the money that the bank pays you for letting them use your money. The interest is calculated based upon the principle amount of money you have deposited with them. This law withholds 31% of the interest and does not harm the principle. For example, if you deposit \$1,000.00 in a simple interest-bearing account that pays you 5% interest, the bank would pay \$50.00. If you do not give them a TIN, they will withhold \$15.50 (31% of \$50.00) from the interest payment. The

withholding has the same effect as paying you only 3.45% interest on your account rather than 5%. Some people find the privacy gained from the lower interest account worth the cost. Regardless of how the banker words the threat to withhold 31% ... they can only withhold from the *interest* that they pay you; they cannot touch the principle.

Threatening to withholding 31% of reportable income is taken much more seriously when it is 31% of your labor compensation (paycheck). However, as with most tax law, this too is not as clear as it first appears; there are several things to consider. First is the issue of “reportable payment.” Secondly we need to understand the legal meaning of the word “fail.” The meaning of “reportable payment” is given to us in subsection (b), but we must look to Black’s Law Dictionary for the meaning of “fail.”

Reportable Payment

Specifically, for our understanding of “reportable payment” we need to look at subsection “(3) Other reportable payment.” That subsection lists the following references that the law uses to define what this means. Those references are included here with their meaning and your reporting duty:

- | | |
|------------------|---|
| 26 USC §6041 | Information at source
(a) Payments of \$600 or more ...
...
(c) Recipient to furnish name and address
When necessary to make effective the provision of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income. |
| 26 USC §6041A(a) | Returns regarding payments of remuneration for services and direct sales
(f) Recipient to furnish name, address, and identification number; inclusion on return
(1) Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations. |
| 26 USC §6045 | Returns of brokers
(a) General rule
Every person doing business as a broker shall ...
...
(b) Statements to be furnished to customers
Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing -
(1) the name, address, and phone number of the information contact of the person required to make such return, and
(2) the information required to be shown on such return with respect to such customer. |

26 USC §6050A	Reporting requirements of certain fishing boat operators (a) Reports ... (1) the identity of each individual performing such services;
26 USC §6050N	Returns regarding payments of royalties (a) Requirement of reporting ... (2) ... setting forth the aggregate amount of such payment and the name and address of the person to whom paid.

The reporting duty for each of these sections require you to provide your name and address. Only 26 USC §6041A(a) asks you to provide an identifying number ... but from whom is that number expected? There is no expectation for an identifying number from any other section.

Be very suspicious anytime the written code becomes ambiguous, and this one is *really* ambiguous.

Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

Hum ... let's see if we can figure out what is being said here:

- any person [who is expected to provide] a return by another person shall furnish the other person his name ...
- ... shall furnish to such other person ... in such manner as the Secretary ...
- any person to whom a statement is required to be made by another person ...
- ... another person shall furnish to such other person ...
- ... a statement is required to be made by another person ...
- any person [who is expecting] a statement [from] another person shall furnish [the] other person ...
- any of the above

Okay. I give up. I think the only thing we can agree on here, is that this is truly ambiguous and totally meaningless. We can simply disregard this as any kind of requirement. After reviewing each piece of the code associated with the 31% withholding requirement, it becomes obvious that it applies only to a portion of interest paid and any other application is simply a myth.

When someone threatens to withhold 31% of the amount of money they owe you, be sure to remind them that you expect them to comply with the applicable laws and will seek criminal and civil damages if they violate the law or commit fraud against you.

Payee Fails to Furnish

Black's Law Dictionary defines the meaning of the word "fail" as:

Fail. Fault, negligence, or refusal.

Certainly if you have a social security number and you fail to furnish it, then the sentence in subsection (A) might apply to you. (*The ownership of "his TIN" is addressed in "Whose Number is it Anyway" on page 247, and that issue is also applicable here.*) The *fail* issue becomes clearer when we look at the sentence and restructure the various meanings for the word *fail*:

- (A) the payee *fails* to furnish his TIN to the payor in the manner required
- (A) the payee, *because of his own fault*, does not furnish his TIN to the payor in the manner required
- (A) the payee, *because of his own negligence*, does not furnish his TIN to the payor in the manner required
- (A) the payee *refuses* to furnish his TIN to the payor in the manner required

However, the law does not require you to furnish that which you do not have. The law cannot be interrupted nor can it be twisted to mean:

- (A) the payee, *who does not have or want a TIN* fails to furnish his TIN to the payor in the manner required,

The meaning of the word "fail" requires that you to do one of the following:

- Fail to furnish a TIN through some fault of your own; such as, you forgot it or forgot to write it on the form.
- Fail to furnish a TIN through some kind negligence; such as, you forgot to write it on the form or simply don't care.
- Fail to furnish a TIN because you simple refuse to provide it.

It does not include or mean that you fail to furnish a TIN because you do not have one; you would be happy to furnish it, if you had one. But, you simply don't have one to give them and you have no desire to obtain one. When you understand the legal meaning of the word *fail*, it becomes clear that this does not apply to people to whom a social security numbers have not been issued and do not wish to obtain one.

Statements Required from Payor

Federal regulation 26 CFR §31.6051-4 defines the statement and method of reporting that a payor must use when doing a backup withhold under the provisions of 26 USC §3406.

26 CFR §31.6051-4 Statement required in case of backup withholding.

(a) Statements required from payor. Every payor of any reportable payment (as defined in section 3406(b)(1)) who is required to deduct and withhold tax under section 3406 must furnish to the payee a written statement containing the information required by paragraph (c) of this section.

(b) Prescribed form. The prescribed form for the statement required by this section is Form 1099. In the case of any reportable interest or dividend payment as defined in section 3406(b)(2), the prescribed form is the Form 1099 required in Sec. 1.6042-4 of this chapter (relating to payments of dividends), Sec. 1.6044-5 of this chapter (relating to payments of patronage dividends), or Sec. 1.6049-6(e) of this chapter (relating to payments of interest or original issue discount). Statements required to be furnished by this section will be treated as statements required by the respective sections with respect to any reportable payment, except that the statement required under this section must include the amount of tax withheld under section 3406. In no event will a statement be required under this section if a statement with the same information is required to be furnished to the recipient under another section.

(c) Information required. Each statement on Form 1099 must show the following:

(1) The name, address, and taxpayer identification number of the person receiving any reportable payment; (2) The amount subject to reporting under section 6041, 6041A(a), 6042, 6044, 6045, 6049, 6050A, or 6050N whether or not the amount of the reportable payment is less than the amount for which an information return is required. If tax is withheld under section 3406, the statement must show the amount of the payment withheld upon; (3) The amount of tax deducted and withheld under section 3406; (4) The name and address of the person filing the form; (5) A legend stating that such amount is being reported to the Internal Revenue Service; and (6) Such other information as is required by the form.

(d) Time for furnishing statements. The statement must be furnished to the payee no later than January 31 of the year following the calendar year in which the payment was made.

(e) Aggregation. The payor or broker may combine the information required to be shown under this section with information required to be shown under another section even if they do not relate to the same type of reportable payment.

Notice the mandatory language in section (c) and (c)(1). Here we see the phrase *must show*. While the courts and the law books play with the meaning of the word *shall*, there is no such debate regarding the use of the word *must*.

The law mandates that “Every payor of any reportable payment (as defined in section 3406(b)(1)) who is required to deduct and withhold tax under section 3406 must furnish to the payee a written statement containing ... Information required.” And, the required information “must show the ... name, address, and taxpayer identification number of the person receiving any reportable payment.” If the payor cannot show these three items, they cannot comply with the law and may be penalized for providing a frivolous return if they attempt to do so.

Social Security Administration

Few people realize that social security is a totally voluntary system, and they can avoid it by never obtaining a social security number. They can get out of social security if they simply stop using a social security number. However, the latter is more difficult to accomplish and the longer you have resided within the system, the longer and more difficult it is to get out of the system.

You get into the system by obtaining a social security card. You avoid the system by not getting a social security card. You sidestep the system by getting your application for a social security card rejected, and you get out of the system by not using a social security number for at least ten years.

Obtaining a Social Security Number

Any lawful resident of the United States may obtain a social security number by completing the *Application for a Social Security Card* (SS-5). This application is used by anyone who has never been issued a social security card, needs a replacement card or has changed his or her name.

Complete the SS-5 using the accompanying instructions. The instructions also list the kind of evidence that you need to submit with your application. Finally, take or mail the SS-5 to the nearest Social Security office. The Social Security Administration will return your original documents right away and send you a Social Security Card in about two weeks. You can get the *Application for a Social Security Card* (SS-5) from any local Social Security Administration office.

Getting Your Application Rejected

Many people may wonder why you would want to fill out an *Application for a Social Security Card* in the first place—especially if your only intent is to have the application rejected. The reason is that the Social Security Administration has begun issuing a special ineligibility letter (SSA-L676) to people who are not eligible for social security numbers and these letters are accepted by the State agencies who issue driver's license as a valid reason for not having a social security number. See "Get a Letter of Ineligibility from the Social Security Administration" on page 82 for more information about getting a driver's license using this letter.

You get your application for a social security card rejected by completing the application form in such a way that causes the Social Security Administration to believe that you are an illegal alien. You get the rejection letter issued immediately if you submit the application in person at any local Social Security Administration office and they reject the application. You should use your real name (so that the letter is addressed to you), but you need to use a different place of birth, mother and father and addresses from your real ones. They will reject the application because you have none of the required supporting documentation, such as an American birth certificate, ID card, or visa.

Social Security regulations require each applicant to provide convincing evidence:

20 CFR 422.107 Evidence requirements.

(a) General. An applicant for an original social security number card must submit documentary evidence which the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit ...

The Social Security Administration will not issue a social security card if you fail this requirement.

The Rescinding a Social Security Number Scam

There is a growing number of Americans who, for various reasons no longer trust the social security system. This growing concern has created a new market among a small group of charlatans who sell various programs telling their customer's how they can rescind or void their social security number. Many of these groups present very convincing arguments.

Regardless of what they claim – save your money. There is no program or method for rescinding a social security number once it has been issued. The Social Security Administration is not authorized to rescind an application or void a social security number.

Getting out of the System

For most people, getting out of the system is the only viable alternative. If you have no government liens filed against you, this process takes about ten years to complete. If you have government liens, it may take as long as twenty years to complete. Either way, it is a long time, but your part in it is easy, or actually hard, because it simply requires you to do nothing during that time. It takes that long for the Internal Revenue Service and the various credit reporting agencies to simply drop you from their active systems. Twenty years if tax liens are involved because it may take that long for the county agencies who record the lien to consider them stale (sometimes moving to another county or state will help you lose these liens).

Doing nothing in this case means that you cannot use a social security number for anything for ten years and that you cannot file for any kind of credit. Additionally you cannot file for bankruptcy or do anything that creates a credit report or a federal tax record. This is difficult, but it can be done and the system will simply forget that you exist. The advantage of *letting the system forget that you exist* is that you can still apply for social security benefits later in life should you wish to do so. Note that minor police problems should not affect this waiting period.

Getting a New Number Assigned

There are few good reasons why you might want to get a new social security number assigned to you. The reasons usually have to do with personal or financial safety. For example a battered spouse or seriously threatened person may want to obtain a new number or someone whose identity has been stolen for the purpose of financial fraud.

There are two ways to approach obtaining a new social security number. The first, and for many, the easiest way is to simply fill out and submit a new application using different historical information. These often get rejected because you don't have the necessary support information, but such applications are also successful often enough to make trying it worth considering. The greatest disadvantage is that you give up your past social security earnings and credit history. The other way is to ask the Social Security Administration to issue a new number to you because of the problem.

The Social Security Administration is very reluctant to issue another number and often do it only after being ordered to do so by a United States District Court or the Social Security Administration's hearing process. However, with sufficient documentation, such as police reports about physical violence (or the threat), evidence of financial fraud against you and other supporting evidence, they will often issue a new number.

If the Social Security Administration is reluctant to issue a new number, and you really need to do this, then file a claim in the District Court. Check with the court about getting your fees waived and talk to a good paralegal who can draft your request. Even without an attorney, the courts are very good at hearing these issues when your need is legitimate; they nearly always grant your request to order the Social Security Administration to issue a new number.

United States Census

The law says you can refuse to give a social security number during any census:

The failure or refusal of a person to disclose the person's social security number in response to a request made in connection with any census or other activity under this section shall not be a violation ...

Violation of the Fifth Amendment

The Fifth Amendment to the Constitution of the United States Constitution prohibits the government from requiring a person to provide any information that could be used against them in court. There are many stipulations within federal law that require various government agencies to share social security numbers with law enforcement agencies for the purpose of possibly accusing you of a crime. You should be aware of these requirements and in many case you may wish to refuse to provide social security number information because

to do so would violate your Fifth Amendment protection. For simplicity, these laws are simply listed.

Code	Title	Purpose
07 USC Sec. 2020 Agriculture	Food Stamp Program – Administration	... social security number ... shall be made available [to] ... law enforcement ...
26 USC Sec. 6103 Internal Revenue Code	Confidentiality and disclosure of returns and return information	... Internal Revenue Service may ... disclose ... information from the master files of the Internal Revenue Service relating to the Social Security account number disclosed to any child support enforcement agency ... address and Social Security account number ...
42 USC Sec. 1382 Public Health and Welfare	Eligibility for benefits	the institution shall provide ... Social Security account numbers Commissioner shall furnish ... law enforcement ... social security number ...
42 USC Sec. 1437z Public Health and Welfare	Exchange of information with law enforcement agencies	Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 1437d or 1437f of this title with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, social security number ...
42 USC Sec. 666 Public Health and Welfare	Child Support and Establishment of Paternity – Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement	In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures[:] [•]... which the State child support enforcement agency shall request ... Social Security account number ... [•]... requiring that the social security number ... (A) any applicant for a ... license be recorded on the application ... [•]... with financial institutions doing business in the State ... to provide ... social security number ... for each noncustodial parent ...
12 CFR 21.11	Suspicious Activity Report.	... A national bank shall file a SAR ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported. ...
12 CFR 208.62	Suspicious activity reports.	... A member bank shall file a SAR ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an ``alias," then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' licenses or social security numbers, addresses and telephone numbers, must be reported. ...

Code	Title	Purpose
12 CFR 353.3	Reports and records.	... A bank shall file a suspicious activity report ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an ``alias", then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as driver's license or social security numbers, addresses and telephone numbers, must be reported; ...
12 CFR 563.180	Suspicious Activity Reports and other reports and statements.	... savings associations and service corporations file a Suspicious Activity Report ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported. ...
29 CFR 102.170	Agency referral to IRS for tax referral effect; Agency responsibilities.	(a) As authorized and required by law, the Agency may refer past-due legally enforceable debts to the Internal Revenue Service ... Such referrals shall include the following information: ... (2) The name and taxpayer identification number (SSN or EIN) of the debtor who is responsible for the debt; ...

Dealing with State and County Agencies

Believe it or not, the worsts of all bureaucrats to deal with, when withholding a social security number, sit in various state and county agencies. Most of these agencies have a total disregard for the law or for your rights. However, the most important thing on our side is the law. Section 7 of Public Law 93-579, as enacted by the Congress of the United States reads as follows:

(a)(1) 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 individual's refusal to disclose his social security account number.

(2) the (The) provisions of paragraph (1) of this subsection shall not apply with respect to -

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

According to (a)(2)(B) of this law, “a requirement for the disclosure of a social security number to any Federal, State, or local agency” is only lawful if such requirements were “in existence and operating before January 1, 1975.” Thereby, Congress attempts to prohibit any Federal, State, or local agency from adopting laws or regulations after January 1, 1975 that require a social security number from people.

Ignorance of the Law is an Excuse for Some

There have been several stories about citizens suing bureaucrats personally for violating the Privacy Act and losing because that portion of the law is obscured as a footnote to 5 USC §552a. The bureaucrat pleaded ignorance of the law because the law had not been properly codified and therefore he could not have known. According to the story, the judge ruled against the plaintiff and in favor of the bureaucrat, agreeing that although ignorance of the law is not a valid defense, this case was different because the law had not been codified.

Notice Regarding Disclosure of Social Security Number Section 7 of Public Law 93-579, as enacted by the Congress of the United States provides that: (a)(1) 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 individual's refusal to disclose his social security account number. (2) the provisions of paragraph (1) of this subsection shall not apply with respect to - (A) any disclosure which is required by Federal statute, or (B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. (b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.
18 USC Sec. 242 and 42 USC Sec. 1983 provides that: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both; 42 USC Sec. 1983 further provides that a violator shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. 42 USC Sec. 408 provides that: Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both. Served on <u>Robert Jones</u> ^{name of person served}, an agent or employee of <u>Cali. Dept. of Motor Vehicle</u> was informed of the law <u>9/20/99</u> ^{date} at <u>2:30pm</u> and is fully aware of the Congressional restriction placed upon him/her and the penalties he/she may suffer for violating the law by requiring me to provide a social security number which I may not have nor am I required to provide, or am providing under duress. Signed: <u>Pam Watson</u> ^{and signature} Witnessed: <u>Larry Simans</u> ^{signature}

We have not been able to find any such court case to substantiate this story. However, with the increasing pressure being directed against citizens, we felt there might be some element of truth to this story. This notification card is designed specifically for the purpose of defeating this supposed “ignorance of the law” defense. Serving this card on each bureaucrat who gives you grief regarding your rights, advises him of the law, his personal liability under the law and your right to collect damages from him. Be sure to make a copy and if possible, get a witness. This card is a very powerful tool in asserting your rights.

When completing various government application and forms, leave any space that asks for a social security number blank. If they ask for it, tell the person

receiving the application that you do not have a social security number.

Serve a copy of this *Notice Regarding Disclosure of Social Security Number* card, on the person who tells you that they cannot process your application. This serves to notify that person that he/she will be held personally and criminally liable for violating the law and for violating your rights. When given this notice, most people will process your application.

Driver's License

Two Federal laws, 42 USC §666 and 42 USC §405 have recently been interpreted by the States as their mandate to begin requiring social security numbers from driver's license applicants. With blatant disregard for the Ninth and Tenth Amendments to the United States Constitution and the State's obligation to protect their citizens, each State of the union has

implemented laws making it very difficult, if not impossible, for the unenumerated to obtain a driver's license.

42 USC §405(c)(2)(C)

(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

42 USC §666 implemented by Public Law 100-485 become effective on Oct. 1, 1985 and was modified in 1997 by Public Law 105-33 to include all driver's license and recreational license.

42 USC §666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

...

(13) Recording of social security numbers in certain family matters. - Procedures requiring that the social security number of -

(A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;

(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate. For purposes of subparagraph (A), if a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.

Only Lawful if it Was Done Before January 1, 1975

According to (a)(2)(B) of Public Law 93-579 (the *Privacy Act*), "a requirement for the disclosure of a social security number to any Federal, State, or local agency" is only lawful if such requirements were "in existence and operating before January 1, 1975." Thereby, Congress prohibits any Federal, State, or local agency from adopting enforceable laws or regulations after January 1, 1975 that require a social security number from people.

When you complete a license application, leave any space that asks for a social security number blank. If the clerk asks for it, tell them that you have no social security number.

Serve a copy of the *Notice Regarding Disclosure of Social Security Number* card shown at the beginning of this section on the clerk if they tell you that they cannot process your license application. This serves to notify the clerk that he/she will be held personally and criminally

liable for violating the law and for violating your rights. Given this notice, the clerk may process your driver's license application.

Get a Letter of Ineligibility from the Social Security Administration

Since passage of the various State laws attempting to require citizens to obtain social security numbers, most States have learned that many people are not enumerated. This has caused a new problem for the States as they attempt to force everybody into the social security system ... even against their will.

In conjunction with the National Highway Traffic Safety Administration, the States have decided that they will issue you a license if you can obtain a letter from the Social Security Administration stating that you are not eligible for a social security number. The Social Security Administration calls this letter SSA-L676 and explains it as follows:

If an individual applies for an SSN and the Social Security Administration (SSA) determines that he or she is not eligible for a number, SSA will, at the applicant's request, provide a letter of ineligibility for an SSN. The form letter, generally an SSA-L676, states the specific reason SSA cannot give the individual a Social Security card.

The most common reason for an alien's ineligibility for an SSN is because he or she is not authorized to work in the United States. For such individuals, the letter states that "we cannot give you a Social Security card because you are an alien not allowed to work in the United States." In some cases, the reason may also include that the alien has not provided evidence of a valid nonwork reason.

The document that provides evidence that an individual has not been assigned an SSN, and is not eligible for one is Form SSA-L676. A person can obtain this form by applying for an SSN at any Social Security office and being found not eligible for an SSN. Upon request, the SSA office will give the individual a letter right away. SSA does not provide any document which states that an individual has not been issued an SSN, other than in connection with an application for an SSN.

Of course this latest move is simply a blatant attempt to force everybody into the federal social security system. But if you can obtain a Form SSA-L676, then you can get your driver's license without a social security number. See "Getting Your Application Rejected" on page 73 for how to do this.

Sue the State for Discrimination

There has recently begun a series of court cases where the plaintiff is seeking relief from providing a social security number when applying for a driver's license. These cases asserted the plaintiff belief that expanded use of the social security number too closely resembles the "mark of the beast" that is written about in the Bible. They claim that their religious conviction, protected under federal law, prevents them from providing a social security number – as such, the State should provide them relief from this requirement.

1 win *Steven Jones and Leo Guglielmo v California DMV*, Oct. 1998

1 loss *Miller v Reed*, May 1999

Beware of the International Driver's Permit

There are many people fraudulently offering an International Driving Permit as a solution for those who cannot get a driver's license for various reasons. See "Get an International Driver's License" on page 204 for more information about this.

The United Nations, in the Convention on International Road Traffic on September 19, 1949, established the International Driving Permit to facilitate the worldwide travel of motorists in foreign countries where language barriers create difficulties for both motorists and police. It has been ratified by more than 160 nations.

For an International Driving Permit to be valid in any accepted country, it must be accompanied by a foreign driver's license. That is, you must also possess a valid driver's license from the country who issued the International Driving Permit ... by itself the permit is not valid. This means that if you expect to drive legally in the United States with an International Driving Permit, then you must also possess a valid driver's license from the country who issued you the International Driving Permit.

International Driving Permits are intended for tourists. It is very important to realize that for an International Driving Permit to be valid in your State or country, you must have a driver's license issued from your state or country. State issued licenses supersede an International Driving Permit in the State or country where they are being used.

Voter Registration

There are many Registrar of Voters offices requiring citizens to provide social security numbers when they register as voters. They get away with this illegal abuse because they are seldom challenged. However, the requirement has been defeated in every case when it is challenged in court.

When you complete a Voter's Registration form, leave any space that asks for a social security number blank. Tell the Registrar of Voters that you have no social security number if they ask for it.

Serve a copy of the *Notice Regarding Disclosure of Social Security Number* card, provided at the beginning of this section on the Registrar of Voters if they tell you that they cannot process your Voter's Registration form. This serves to notify the Registrar of Voters that he/she will be held personally and criminally liable for violating the law and for violating your rights. Given this notice, the Registrar of Voters will usually process the Voter's Registration form.

Sue the Bureaucrats

Greidinger v. Davis, 988 F.2d 1344 (U. S. Court of Appeals, 4th Circuit)—As a consequence of registering to vote in the Commonwealth of Virginia (Virginia), a registered voter's Social Security number (SSN) is subject to public inspection in the Office of the General Registrar and provided upon request to, among other entities, political parties as part of voter registration lists. Applying strict scrutiny, the district court held that these provisions of Virginia's voter registration scheme do not violate appellant's fundamental right to vote. *Greidinger v. Davis*, 782 F. Supp. 1106 (E.D. Va. 1992). We now reverse.

...

In summary, we hold ... that ... the public disclosure of Greidinger's SSN as a condition of his right to vote. It creates an intolerable burden on that right as protected by the First and Fourteenth Amendments. Accordingly, the judgment of the district court is reversed. We remand the case to the district court to give the Commonwealth of Virginia the responsibility to cure this constitutional infirmity by either deleting the requirement that a registrant disclose his SSN or eliminating the use of SSNs in voter registration records open to public inspection and contained in voter registration lists provided to candidates for election, political party committees and officials, incumbent office holders, and non-profit organizations which promote voter participation and registration.

Also, when Nevada's Clark County Registrar of Voters Kathryn Ferguson refused to let 18-year-old Joshua Hansen register to vote because he said he didn't have a social security number, Joshua sued. Clark County District Court Judge, Gene Porter ruled against the County Registrar of Voters requirement on Oct. 26, 1998 and Joshua voted in the election.

Schools

Schools often ask for a child's social security number as a matter of policy or habit. There is no law requiring a student to have a social security number to participate in public or private school. In fact, the law prohibits such a requirement. Section 7 of Public Law 93-579, as enacted by the Congress of the United States reads that:

(a)(1) 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 individual's refusal to disclose his social security account number.

When you complete an enrollment application for your child, leave any space that asks for a social security number blank. If they ask for a social security number, tell the school that neither you nor your child has one.

Serve a copy of the *Notice Regarding Disclosure of Social Security Number* card, provided at the beginning of this section on the person receiving the application if they tell you that they cannot process your application. This serves to notify them that they will be held personally and criminally liable for violating the law and for violating your rights. Given this notice, they will usually process the enrollment.

School Free Lunch Programs

School “free lunch” programs are subsidized by the United States Department of Agriculture. As an expectation of receiving federal money, the schools are asked to obtain a social security number from each participant. If the child does not have a social security number, the school will give the parents a Form SSA-5, *Application for Social Security Card* and tell them that they must provide a social security number for participation in the program. They base their assertion on 42 USC §1758:

42 USC §1758 School Lunch Programs – Program requirements

(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the Social Security account number of the parent ...

However the regulations implementing these lunch programs assert a different requirement:

7 CFR §1.123 Specific exemptions.

... Sec. 6 Social security account numbers. (a) No agency shall deny, or permit any State or local government with whom it is involved in a cooperative venture to deny, to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security account number. (b) Paragraph (a) of this section shall not apply with respect to: (1) Any disclosure required by Federal statute; or (2) Any disclosure to any agency relating to a system of records it maintained prior to January 1, 1975, if such disclosure was required under statute or regulation adopted prior to that date, to verify the identity of an individual. (c) Any agency in the Department which requests an individual to disclose his or her social security account number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it. The agency shall also insure that this information is provided by a State or local government with whom it is involved in a cooperative agreement. ...

There no requirement that the parents have or obtain a social security number:

7 CFR §226.23 Free and reduced-price meals.

... (C) The social security number of the adult household member who signs the application, or an indication that he/she does not possess a social security number; ...

7 CFR §245.6a Verification requirements.

... eligibility for free or reduced price meals. These households shall be advised of the type or types of information and/or documents acceptable to the school. This information must include a social security number for each adult household member or an indication that such member does not have one. ...

No where in the regulation is there a requirement for the child to obtain a social security number. Additionally the regulations provide for “an indication that such member does not have one” if parent does not a social security number.

Hunting and Fishing License

Many States have implemented requirement that applicants for hunting or fishing license/ permits provide a social security number as a result of federal law 42 USC §666. The law was implemented by Public Law 100-485 become effective on Oct. 1, 1985 and was modified in 1997 by Public Law 105-33 to include all driver's license and recreational license.

42 USC §666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

...

(13) Recording of social security numbers in certain family matters. - Procedures requiring that the social security number of -

(A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;

(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate. For purposes of subparagraph (A), if a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.

However Public Law 93-579 has not been changed and supersede the above requirement.

Section 7 of Public Law 93-579, as enacted by the Congress of the United States states that:

(a)(1) 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 individual's refusal to disclose his social security account number.

(2) the (The) provisions of paragraph (1) of this subsection shall not apply with respect to -

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

According to (a)(2)(B) of this law, "a requirement for the disclosure of a social security number to any Federal, State, or local agency" is only lawful if such requirement was "in existence and operating before January 1, 1975." Thereby, Congress prohibits any Federal,

State, or local agency from enforcing laws or regulations adopted after January 1, 1975 that require a social security number from people.

When you complete an application for a hunting or fishing license, leave any space that asks for a social security number blank. Tell the clerk that you have no social security number if they ask for it.

Serve a copy of the *Notice Regarding Disclosure of Social Security Number* card, provided at the beginning of this section on the clerk if they tell you that they cannot process your application. This serves to notify them that they will be held personally and criminally liable for violating the law and for violating your rights. Given this notice, the clerk will usually process the form.

Verify the Applicable Law

It is important to read the applicable laws because these laws often specify something very different from what you are being told. For example, in California most Department of Motor Vehicle clerks believe that the law requires an applicant for a California driver's license or identification card to provide their social security account number because the law reads:

(a) The applicant's true full name, age, sex, mailing address, residence address, and social security number. *California Vehicle Code (CVC) §12800*

Notice that this code is not requiring an applicant to provide a number ... the code simply states that the application (form) shall contain fields for “the following information.” It is very similar to CVC §1653.5:

(a) Every form prescribed by the department for use by an applicant for the issuance or renewal by the department of a driver's license or identification card pursuant to Division 6 (commencing with Section 12500) shall contain a section for the applicant's social security account number.

When we read the actual “requirement” to include a social security number, we discover that it is qualified with a strange phrase: “Notwithstanding any other provision of law ...”

(a) Notwithstanding any other provision of law, the department shall require every application for a driver's license to contain the applicant's social security number and any other number or identifier determined to be appropriate by the department. *CVC §12800.1*

“Notwithstanding any other provision of law ...” is a strange phrase to find in the law because of what it means, that is:

- Despite any law to the contrary ...
- Despite any law that says we can't ...
- Regardless of what other laws might say ...
- You must obey the law, but we don't have to ...

The reason this phrase is added to the law is because California's attempt to require a social security number does violate other provisions of law, such as provided for in Section 7 of

Public Law 93-579 which contain a “shall not apply” provision at (B) for “a system of records in existence and operating before January 1, 1975.” All of these new state requirement for a social security number have been adopted after 1975 and therefore were not “in existence and operating before January 1, 1975.”

Also, upon closer reading of CVC §1653.5:

(d) The department shall not complete any application that does not include the applicant's social security account number or driver's license or identification card number as required by subdivision (c).

This law is necessary because Public Law 93-579 prohibits California from requiring an applicant's social security number, so they additionally attempt to prohibit their employees from processing application that do not include the applicant's social security account number. Of course it still against the law “to deny any individual any right, benefit, or privilege ... because of such individuals refusal to disclose his social security number.”

California, like most other states, also attempts to “require” applicants for various professional license to provide social security numbers in violation of Public Law 93-579 ... and in each case they acknowledge the existence of contrary law.

(a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance or renewal of the license require that any licensee provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others. *California Business and Professions Code §30*

and

(a) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) require that any licensee provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others. *California Insurance Code §1666.5*

It critical to review each applicable law carefully when you are dealing with various state agencies. Most states have drafted laws with similar wording. Read the law carefully because it probably not require you to do anything, but instead is doing one of the following:

- Attempting to restrict the duty of a state employee.
- Defining the appearance or data field to include on a form.
- Despite any other provision of law ... trying to trick you into believing you are required to provide something that they cannot require you to do.

Dealing with the Public

Usually it is quite easy to deal with the general public regarding issues of privacy and withholding a social security number. Often the people who ask you for a number are impressed to learn that the people do have rights and that there are laws that actually prohibit people from requiring disclosure. When dealing with the public, most people who ask you for a social security number are simply doing it out of the misguided belief that some mysterious law requires everybody to be branded slaves of the system. While these people are sometimes offended by your simple refusal (particularly if they are foreigners), most become quickly impressed when you explain the legal reasons that protect you from disclosing a social security number. Most people are disgusted with the idea that they have lost a good part of their freedom. These people often become excited to learn that many of the chains they have been wearing have been held in place by their own ignorance of the law. You will quickly discover that many people are really excited to learn how easy it is to regain so much of their lost freedom and privacy. Now that you are a serious student of this topic, you have an obligation to share your knowledge and insight. One excellent way of doing this is simply to become more outspoken about these important issues.

Of course, in all cases where the offending party persists in their request, you can assert your legal rights and remind them that they are violating the law. However, you should always practice the degree of diplomacy that is warranted by each situation. For example, being perceived as a “tough guy” looking to sue people while trying to rent an apartment is not usually the wisest approach.

One excellent way of doing this is simply to become more outspoken about these important issues.

Renting

Most rental applications ask a prospective tenant for a social security number while requesting your permission to obtain a credit report and to check for previous evictions. Many rental agencies and rental owners also ask you to pay the processing fee for this credit check.

Here are several reasonable alternatives to this request:

- Simply ask the prospective landlord if a social security number is really necessary. Tell them that you consider this very private information and would prefer not sharing it with anyone other than government agencies who absolutely require it. After a reasonable explanation, most people will admit that they really don't need it.
- Obtain a copy of a credit report before you begin looking for a rental. Carry the original with you so that prospective landlords can know that it is authentic and leave

them an extra copy. Not only does this save you money, but it makes their job easier because they don't need to run the credit check.

- Obtain *Letters of Recommendation* from previous landlords or rental agencies. These letters are actually the best alternative because they tell your prospective landlord exactly what they need to know ... that you are an excellent tenant.

Utilities

Utility suppliers usually ask for a social security number because they want to check your credit worthiness or because they like to use the number as a unique identifier. Most utility suppliers don't press the issue when you decline to provide a social security number. For those that do, you should explain that you don't have a social security and that the *Privacy Act* (Public Law 93-579) makes it unlawful for any person to require an individual to disclose or furnish a social security number for any purpose, unless the disclosure or furnishing the number was specifically required under federal law. Then ask them to please tell you which law requires disclosure of a social security number in this instance.

If they persist, explain that since passage of the *Privacy Act* in 1974, the federal courts have ruled that it applies equally to the private sector. Their requests for social security numbers must conform to the disclosure requirements of the *Privacy Act*. See *Yeager v. Hackensack Water Co.*, 615 F. SUPP. 1087, (D.C.N.J. 1985).

The utility company cannot use lack of a social security number in any adverse way against anyone, unless they can show that it is required by law.

Insurance

Insurance companies use the social security number as a unique identifier. Again very few companies will persist when you decline to provide it. If they do, then follow the advice given above.

Medical

Doctors, hospitals and dentists often ask new patients for a social security number because they use the number as a unique identifier for their records, computer entry and to bill the insurance company. They routinely ask you for this information on their forms for new patients. Usually you can quell this request by simply leaving the SSN field blank. Most professional service providers will not ask you for this information directly and simply ignore it or create some kind of substitute number for their computer.

Don't Number Your Baby

Most hospitals and county officials will tell you that you *must* complete the forms necessary to obtain a social security number for your baby before your baby can leave the hospital. Of course, no such requirement exists. According to the Social Security Administration, "Getting a Social Security number for your baby is strictly voluntary." Here is an excerpt from SSA Publication 05-10023. You should obtain a copy of this publication before your baby is born so that you can show it to hospital officials.



Occasionally a hospital will send a *goon* to tell you that the law, specifically 42 USC 405(c)(2)(C), requires them to obtain a social security number or a birth certificate cannot be issued.

(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

(ii) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Commissioner of Social Security) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the Commissioner of Social Security and the agency administering the State's plan under part D of subchapter IV of this chapter in accordance with Federal or State law and regulation. Such numbers shall not be recorded on the birth certificate. A State shall not use any social security account number, obtained with respect to the issuance by the State of a birth certificate, for any purpose other than for the enforcement of child support orders in effect in the State, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.

This is simply a bogus argument. The best way to deal with that threat is to simply tell them "fine, then don't issue a birth certificate." If the baby was born, then the hospital has no choice but to draft a *Record of Live Birth* and send it the local County Records office. The

county creates a birth certificate based on these records. You can request a birth certificate anytime you wish.

There have been a few rare instances when a hospital *goon* threatens to refuse to let you leave the hospital with your baby if you don't first apply for a social security number. They usually don't realize that they are threatening to kidnap a child and such a threat is a serious crime. For the sake of getting good evidence, ask them to put that threat in writing. You should take such a threat seriously and immediately speak to upper management. Be sure to explain that you are clearly offended by such threats and will turn it over to the appropriate authorities if necessary and you may even seek civil damages.

Credit Reporting Agencies

Credit reporting agencies use the social security number as a unique identifier. They obtained the social security number from you when you completed a credit application. They believe that their authority to use the social security number came to them by way of your signing the credit application. Credit reporting agencies can only use information that they obtain from one of the following sources:

- directly from information that you give them on a credit application
- directly from a company that you ask for credit
- directly from a company that provides you credit
- public records

How the Major Credit Reporting Agencies Identify You

Every credit reporting agency has a particular system of file retrieval that allows them to identify the file of each person in their system. It is necessary to identify each file in such a manner as to separate individuals with similar names and addresses so that Robert Jones will not appear on the file as Bob Jones. However, no bureau has yet come up with a perfect system of file identification. That is why you will sometimes see items on a credit report that belong to someone else with a similar name.

In an effort to maintain maximum efficiency, credit reporting agencies prefer to set up more than one file per person rather than risk merging several people's files into one. This is the weak link in the system.

Credit reporting agencies have two basic types of file identification. One type is used by EXPERIAN, Equifax, and other major credit reporting agencies, with the exception of TransUnion. TransUnion uses the other type.

The first type uses the following sequence of information to match an existing file. If the information does not match, a new file is created.

Field	Comments
Last Name	The computer only recognizes the first ten digits of the last name. Letters must match an existing file, or a new file will be created and the computer will stop the search. Otherwise the computer will proceed.
First Name	If the last name matches an existing file, the computer will continue by matching the first three letters of the first name. If the first name matches an existing file with the same first name and last name, it will then proceed to match other segments. Otherwise a new file will be created.
Middle Initial	Once the last name and first name have been matched, the computer will proceed to match the middle initial. If all segments match, the program will continue. Otherwise it will either create a new file or skip the middle initial and proceed with the checking.
Spouse	If married, the spouse's first initial will appear after the file holder's middle initial. If not married, the computer will proceed to match other segments.
House Number	After matching all the above segments, the computer will proceed to match the first five digits of the house number and continue.
Street Name	The computer will proceed by matching the first letter of the street.
Zip Code	The computer will proceed to match address with zip code. If five years or more at present address, the computer will stop. A search revealing persons with similar names and addresses will result in the files being merged and a flag will be added to the file.
Previous Address	If less than five years at present address, the computer will check previous addresses. The computer can hold up to ten previous addresses, but will usually list only the last three.
Date Of Birth	The computer will proceed to match the year of birth only. You do not have to use your complete date of birth. Only enter year of birth on any applications you make.
Social Security Number	The computer will proceed to match all of the previous elements with the social security number. If the social security number does not match the previously reported number, a flag will be added to the file. The credit reporting agency also maintains files on Employer ID numbers (EIN) and Taxpayer ID numbers (TIN).

The other system is based entirely on an applicant's social security number, employer identification number (EIN), and taxpayer identification number (TIN). If it does not match the name, a new file will be created.

How to Establish a New Credit File

Unlike employers, credit reporting agencies do not check the validity of a social security number (or any thing else given to them, for that matter). They simply attempt to match data records, create new data records and maintain files. Understanding this is the key to creating

a new credit report. Creating a new credit report is as simple as completing a mail-in credit application for a credit card.

You can enter anything on the application you wish, but it is prudent to be realistic. Your credit application will very likely be rejected for something like “no credit file exists” or “insufficient credit history.” Of course, if it is a new identity, it is not surprising that a credit file does not exist. However, at the moment they got that reply, the agency’s computer also created a new file ... and now it does exist.

Next apply for a credit card or just wait for the “pre-approved” junk mail to arrive (now that you have a credit history, it will come). Complete an application for secured credit card. You are “pre-approved” if the information you put on the application matches the information in your credit file and you pay the deposit they want. If you use the card and always pay your bill properly, you will quickly begin establishing a quality credit history. Also note, that the credit report does not reflect the fact that you have secured credit card, so others will only know that your credit history is good.

Never merge your new credit with your old credit file. Here are some simple items to avoid when establishing your new file:

- Avoid asking for credit at places where you previously had credit.
- Do not open an account at a bank where you've done business in the past.
- Do not give out previously used credit references.
- Do not use addresses, phone numbers, relatives, etc., that you used in your previous file.
- Avoid having your spouse listed on your credit applications – no joint credit!
- Avoid using social security number.
- Do not use checks from your old accounts to pay new creditors.
- If you use a social security number, do not give it to anyone you had contact with in the past who could connect you with your past credit file.

When starting this new process you may be asked “why don't you have any credit?” This is easily countered by saying you've been out of the country for several years, or that you were in the military, self-employed or had no previous desire for credit.

The Fair Credit Reporting Act

Amendments to the *Fair Credit Reporting Act* (FCRA), effective September 30, 1997 – benefit consumers by strengthening privacy provisions and defining more clearly the responsibilities and liabilities of businesses that provide information to – and access data from – credit reporting agencies. Information in your credit report can affect your ability to get a job, a mortgage, a loan, a credit card or insurance.

Get a Copy of the Credit Report

To obtain a copy of your credit report contact:

- Equifax, 800-685-1111
- Experian (formerly TRW), (888) EXPERIAN (397-3742)
- Trans Union, 800-916-8800

You can contact the credit reporting agencies to remove your name and address from the lists used for unsolicited credit and insurance offers for two years. If you complete and return an “opt-out” form, provided on request from the credit reporting agency, you will be off these lists permanently. A phone call or mailing to any one of the three nationwide credit reporting agency will get you off the lists.

To “opt-out” of credit card and insurance lists:

- 1-888-5-OPTOUT (1-888-567-8688) for all three credit reporting agencies.

Regardless of what the credit reporting agency tells you, a social security number is not needed to obtain a copy of a credit report. The law, 15 USC §1681h provides only that you “furnish proper identification.”

15 USC §1681h Conditions and form of disclosure to consumers

(a) In general

(1) Proper Identification

A consumer reporting agency shall require, as a condition of making the disclosures required under section 1681g of this title, that the consumer furnish proper identification.

(2) Disclosure in writing

Except as provided in subsection (b) of this section, the disclosure required to be made under section 1681g of this title shall be provided under that section in writing.

Simply providing them with the minimal information needed to uniquely identify you is all that is required.

Reporting Violations of the Law

You can file a complaint with the Federal Trade Commission by contacting the Consumer Response Center by phone: toll-free 1-877-FTC-HELP (382-4357); TDD: 202-326-2502; by mail: Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Ave, NW, Washington, D.C. 20580; or through the Internet, using the online complaint form. Although the Commission cannot resolve individual problems for consumers, it can act against a company if it sees a pattern of possible law violations.

The Federal Trade Commission publishes free brochures on many consumer issues. For a complete list of publications, write for Best Sellers, Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Ave, NW, Washington, D.C. 20580; or call toll-free 1-877-FTC-HELP (382-4357), TDD 202-326-2502.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal *Fair Credit Reporting Act* is designed to promote accuracy, fairness, and privacy of information in the files of every consumer reporting agency. Most consumer reporting agencies are credit reporting agencies that gather and sell information about you – such as, if you pay your bills on time or have filed bankruptcy. They sell this information to creditors, employers, landlords, and other businesses.

The *Fair Credit Reporting Act*, codified at 15 U.S.C. §§1681, 1681u. The *Fair Credit Reporting Act* gives you specific rights as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** – Anyone who uses information from a consumer reporting agency to take action against you – such as denying an application for credit, insurance, or employment – must tell you, and give you the name, address, and phone number of the consumer reporting agency that provided the consumer report.
- **You can find out what is in your file.** – At your request, a consumer reporting agency must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the consumer reporting agency, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a consumer reporting agency may charge you up to eight dollars.
- **You can dispute inaccurate information with the consumer reporting agency.** – If you tell a consumer reporting agency that your file contains inaccurate information, they must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the consumer reporting agency. (The source also must advise national consumer reporting agencies – to which it has provided the data – of any error.) The consumer reporting agency must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the consumer reporting agency's investigation does not resolve the dispute, you may add a brief statement to your file. The consumer reporting agency must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.
- **Inaccurate information must be corrected or deleted.** – A consumer reporting agency must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. However, the consumer reporting agency is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the consumer reporting agency cannot reinsert a disputed item back into your file unless the information source verifies its accuracy and completeness. In addition, the consumer reporting agency must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.
- **You can dispute inaccurate items with the source of the information.** – If you tell anyone – such as a creditor who reports to a consumer reporting agency – that you dispute an item, they may not then report the information to a consumer reporting

agency without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.

- **Outdated information may not be reported.** – In most cases, a consumer reporting agency may not report negative information that is more than seven years old; ten years for bankruptcies.
- **Access to your file is limited.** – A consumer reporting agency may provide information about you only to people with a need recognized by the *Fair Credit Reporting Act* – usually to consider an application with a creditor, insurer, employer, landlord, or other business.
- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** – A consumer reporting agency may not give out information about you to your employer, or prospective employer, without your written consent. A consumer reporting agency may not report medical information about you to creditors, insurers, or employers without your permission.
- **You may choose to exclude your name from consumer reporting agency lists for unsolicited credit and insurance offers.** – Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the consumer reporting agency form provided for this purpose, you must be taken off the lists indefinitely.
- **You may seek damages from violators.** – If a consumer reporting agency, a user or (in some cases) a provider of consumer reporting agency data, violates the *Fair Credit Reporting Act*, you may sue them in state or federal court.

Dealing with Idiots

There are always those idiots who, no matter what you say, they simply refuse to believe you. These people will not take the time to study the issues or laws, and continue (as the pompous asses that they truly are) to demand that you provide them with a social security number.

The following form is especially useful for advising these kinds of people in a very serious way, that they may be headed for much more trouble than they had anticipated. This form provides space for you to record the incident, gives them fair legal notice and provides them an opportunity to cease with their demand and comply with the law. Completing this form and making a copy serves as a witness that they were informed of the law and their legal

obligations. It is a very effective too when you seek a criminal indictment against them or when you sue them. This form is a real barn-burner when you are getting ready to kick butt.

Form SSN	Citizen's Assertion of Legal Right to withhold disclosure of SSN
► Public Law—93-579 (Section 7)	
Name and address of Citizen	Name and address of Notice Recipient
Citizen's statement:	
I certify that the forgoing information stated here is true and correct. Citizen's signature _____ Date ► _____	
Legal Notice and Warning	
Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and can also be held personally liable for civil damages. Federal Law, Section 7 of Public Law 93-579 provides that: "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 individual's refusal to disclose his social security account number." Federal courts have ruled the Privacy Act applies equally to the private sector. Warning, you are in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! The law provides that you can be held personally responsible and liable, as well as your company or agency. There is no law requiring an individual to obtain or use a social security number. Your requirement and/or demand that I provide a social security number to you is a violation of one or more of the following laws: 4 CFR 83.9; 5 USC Sec. 552a; 7 CFR 1.123; 7 USC Sec. 2204g; 14 CFR 1212.604; 17 CFR 249.501a; 19 CFR 118.11; 19 CFR 122.25; 19 CFR 24.5; 24 CFR 5.212; 28 CFR 16.53; 28 CFR 513.31; 28 CFR 700.25; 29 CFR 70a.10; 29 CFR 71.12; 31 CFR 1.32; 31 CFR 501.806; 32 CFR 270.19; 32 CFR 310.20; 32 CFR 311.5; 32 CFR 316.6; 32 CFR 317.20; 32 CFR 323.5; 32 CFR 505.2; 32 CFR 701.108; 32 CFR 806b.9; 38 CFR 1.575; 38 CFR 3.216; 38 USC Sec. 5101; 39 CFR 266.4; 45 CFR Part 801; 47 CFR 0.554; 49 CFR 10.29. You are advised to cease and desist with your demand and to seek <i>personal</i> legal counsel if you do not understand the law.	
Notice of Service: I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.	
42 USC Sec. 408 provides that: "Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both." 18 USC §242 and 42 USC §1983 provides that: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."	

Public Domain—Privacy Form SSN(02) 2000

Knowing the Criminal

Many times the unenumerated are unknowingly victims of a crime. The most notable example of this is when someone tells you that you must have, or you must provide a social security number because it is the law. Most often that statement that "it is the law" is a criminal violation of the law, which, if proven could subject the person who said it to fines and jail.

For example 18 USC §242 and 42 USC §1983 provides that:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States,... shall be fined under this title or imprisoned not more than one year, or both;
42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

And 42 USC §408 provides that:

Whoever... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.

It is also good to be familiar with these:

18 USC §2425 Use of interstate facilities to transmit information about a minor.
... knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address ...

42 USC Sec. 1307 Penalty for fraud.
... Whoever, with the intent to elicit information as to the Social Security account number ... shall be deemed guilty of a felony ...

7 CFR 400.410 Penalties.
Unauthorized disclosure of SSN's or EIN's by any person may subject that person, and the person soliciting the unauthorized disclosure, to civil or criminal sanctions imposed under various Federal statutes, including 26 U.S.C. 7613, 5 U.S.C. 552a, and 42 U.S.C. 408.

If these crimes are committed against you, and you can prove it, you should talk to your local district attorney about filing a criminal complaint. If your evidence has legal merit, the local district attorney is obligated to pursue the case.

Appendices



The Voluntary Nature of the Social Security Number

This section is a compilation of the various laws and regulations that define the voluntary nature of the social security number. Study this list carefully as you will find it contains a lot of important information and will be a valuable resource when asserting your rights.

To avoid a lot of unnecessary overhead each item contains only enough excerpt to establish the content of the topic. You can read the entire law or section on the Web.

List of Laws and Regulations

Code	Title	Excerpt
4 CFR 83.9	Social security number.	(a) GAO may not require individuals to disclose their social security number (SSN) unless disclosure would be required ... Under ... statute ... (b) Individuals ... shall suffer no penalty or denial of benefits for refusing to provide it.
5 USC Sec. 552a	Records maintained on individuals	In footnote: Section 7 of Pub. L. 93-579 provided that: (a)(1) 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 individual's refusal to disclose his Social Security account number.

Code	Title	Excerpt
7 CFR 1.123	Specific exemptions.	... Sec. 6 Social security account numbers. (a) No agency shall deny, or permit any State or local government with whom it is involved in a cooperative venture to deny, to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security account number. (b) Paragraph (a) of this section shall not apply with respect to: (1) Any disclosure required by Federal statute; or (2) Any disclosure to any agency relating to a system of records it maintained prior to January 1, 1975, if such disclosure was required under statute or regulation adopted prior to that date, to verify the identity of an individual. (c) Any agency in the Department which requests an individual to disclose his or her social security account number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it. The agency shall also insure that this information is provided by a State or local government with whom it is involved in a cooperative agreement. ...
7 USC Sec. 2204g	Authority of Secretary of Agriculture to conduct census of agriculture	The failure or refusal of a person to disclose the person's social security number in response to a request made in connection with any census or other activity under this section shall not be a violation ...
14 CFR 1212.604	Social security numbers.	(a) It is unlawful for NASA to deny to individuals any rights, benefits, or privileges provided by law because of the individuals' refusal to disclose their social security numbers, except where: ...
17 CFR 249.501a	Form BDW, notice of withdrawal from registration as broker-dealer	... except for social security account numbers, disclosure of which is voluntary. ...
19 CFR 118.11	Contents of application.	(f) A list of all employees involved in the CES operation setting forth their names, dates of birth, and social security numbers. (Providing social security numbers is voluntary; however, failure to provide the number may hinder the investigation process.);
19 CFR 122.25	Exemption from special landing requirements.	Note. Where the social security number is requested, furnishing of the SSN is voluntary. ... The SSN will be made available to Customs personnel on a need-to-know basis. Failure to provide the SSN may result in a delay in processing of the application;

The Voluntary Nature of the Social Security Number

Code	Title	Excerpt
19 CFR 24.5	Filing identification number.	... (2) If neither an Internal Revenue Service employer identification number nor a social security number has been assigned, the word "None" shall be written on the line provided for each of these numbers on Customs Form 5106 and the form shall be filed in duplicate. (c) Assignment of importer identification number. Upon receipt of a Customs Form 5106 without an Internal Revenue Service employer identification number or a social security number, an importer identification number shall be assigned ...
24 CFR 5.212	Compliance with the Privacy Act and other requirements.	(a) Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this subpart shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law. ...
28 CFR 16.53	Use and collection of social security numbers.	(a) That individuals may not be denied any right, benefit, or privilege as a result of refusing to provide their social security numbers, unless the collection is authorized either by a statute or by a regulation issued prior to 1975; and ...
28 CFR 513.31	Limitations.	(a) Social Security Numbers. As of September 27, 1975, Social Security Numbers may not be used in their entirety as a method of identification for any Bureau record system, unless such use is authorized by statute or by regulation adopted prior to January 1, 1975.
28 CFR 700.25	Use and collection of social security numbers.	(b) The Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required to furnish Social Security numbers without statutory or regulatory authorization and that individuals who are requested to provide Social Security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.
29 CFR 70a.10	Solicitation of social security numbers.	(a) Neither the Department nor its component units shall deny to any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose his social security number. ...

Code	Title	Excerpt
29 CFR 71.12	Use and collection of social security numbers.	(a) Each component unit that requests an individual to disclose his social security account number shall provide the individual, in writing, with the following information: ... (1) The statute, regulation, Executive Order or other authority under which the number is solicited; ... (b) Neither the Department nor any of its component units shall, in the absence of specific federal statutory authority, deny to an individual any right, benefit or privilege provided by law solely because of such individual's refusal to disclose his social security account number. ...
31 CFR 1.32	Use and disclosure of social security numbers.	(a) In general. An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number. ...
31 CFR 501.806	Procedures for unblocking funds believed to have been blocked due to mistaken identity.	... inclusion of a social security number is voluntary but will facilitate resolution of the request.
32 CFR 270.19	Reports to Congress.	... Social security number: Providing a social security number is voluntary. If one is not provided, the application for payment will still be processed.
32 CFR 310.20	General considerations.	(b) Collecting social security numbers (SSNs). (1) It is unlawful for any federal, state, or local governmental agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN. However, if a federal statute requires that the SSN ... (4) Executive Order 9397, "Numbering System For Federal Accounts Relating to Individual Persons," November 30, 1943, authorizes solicitation and use of SSNs as numerical identifier for individuals in most Federal records systems. However, it does not provide mandatory authority for soliciting SSNs. (5) Upon entrance into military service or civilian employment with the Department of Defense, individuals are asked to provide their SSNs. The SSN becomes the service or employment number for the individual and is used to establish personnel, financial, medical, and other official records. Provide the notification in paragraph (b)(2) of this section to the individual when originally soliciting his or her SSN. After an individual has provided his or her SSN for the purpose of establishing a record, the notification in paragraph (b)(2) is not required ...
32 CFR 311.5	Procedures.	... (6) Individuals shall not be denied access to their records for refusing to disclose their Social Security Numbers (SSNs), unless ...

The Voluntary Nature of the Social Security Number

Code	Title	Excerpt
32 CFR 316.6	Procedures and responsibilities.	... (ii) The System Manager may release records to the individual's representative ... the System Manager may require whatever identifying information is needed to locate the record; i.e., name, social security number, date of birth. ... An individual will not be denied access to his record for refusing to disclose his social security number unless disclosure is required by statute or by regulation adopted before 1 January 1975.
32 CFR 317.20	General considerations.	... (b) Soliciting the social security number. (1) It is unlawful for any Federal, State, or local government agency to deny an individual a right, benefit, or privilege provided by law because the individual refuses to provide the social security number (SSN). However, this prohibition does not apply ...
32 CFR 323.5	Procedures.	... (5) It is unlawful for any Federal, state, or local government agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her social security number (SSN). ...
32 CFR 505.2	Individual rights of access and amendment.	... Nor can an individual be denied access solely because he/she refused to provide his/her social security number unless the social security number was required for access by statute or regulation adopted prior to January 1, 1975 ...
32 CFR 701.108	Collecting information about individuals.	... (c) Soliciting the social security number (SSN). (1) It is unlawful for any Federal, State, or local government agency to deny an individual a right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN. ... however, it does not make it mandatory for individuals to provide their SSNs.
32 CFR 806b.9	Requesting the Social Security Number (SSN).	(a) Do not deny people a legal right, benefit, or privilege for refusing to give their SSNs unless ... (c) Executive Order 9397, November 22, 1943, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN, but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records. ...

Code	Title	Excerpt
38 CFR 1.575	Social security numbers in veterans' benefits matters.	(a) Except as provided in paragraph (b) ... no one will be denied any right, benefit, or privilege provided by law because of refusal to disclose ... a social security number. (b) VA shall require mandatory disclosure of a claimant's or beneficiary's social security number (including the social security number of a dependent of a claimant or beneficiary) on necessary forms as prescribed by the Secretary as a condition precedent to receipt or continuation of receipt of compensation or pension payable under the provisions of chapters 11, 13 and 15 of title 38, United States Code, provided, however, that a claimant shall not be required to furnish VA with a social security number for any person to whom a social security number has not been assigned.
38 CFR 3.216	Mandatory disclosure of social security number.	... However, no one shall be required to furnish a social security number for any person to whom none has been assigned. ...
38 USC Sec. 5101 Veterans' Benefits	Claims and forms	... A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.
39 CFR 266.4	Collection and disclosure of information about individuals.	... (4) The Postal Service will not require individuals to furnish their social security account number or deny a right, privilege or benefit because of an individual's refusal to furnish the number unless it must be provided by Federal law. ...
45 CFR Appendix A to Part 801	... Forms of Application	... Voting Rights Act Application ... The disclosure of social security number and telephone number is voluntary. Failure to state either or both numbers will NOT result in your application being deficient.
47 CFR 0.554	Procedures for requests pertaining to individual records in a system of records.	... Note: An individual's refusal to disclose his social security number shall not constitute cause in and of itself, for denial of a request. ...
49 CFR 10.29	social security numbers.	(a) No individual is denied any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number. (b) The provisions of paragraph (a) of this section do not apply to: (1) Any disclosure which is required by Federal statute; or (2) The disclosure of a social security number when such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of an individual.

United States Code

This section is a list of the all of the applicable laws dealing with the social security number. You will find it contains a lot of important information and will be a valuable resource when asserting your rights.

To avoid a lot of unnecessary overhead each item contain enough excerpt to establish the content of the topic. You can read the entire law or section on the Web.

Table 4 References to Social Security Numbers

Code	Title	Purpose
5 USC Sec. 301 Government Organization and Employees	Departmental regulations	[In footnote: Pub. L. 104-208, div. C, title VI, Sec. 656, Sept. 30, 1996, 110 Stat. 3009-716, provided that: ... A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements ... (ii) social security number . – Except as provided in subparagraph (B), the license or document shall contain a Social Security account number that can be read visually or by electronic means. ... (B) Exception. ... (i) does not require the license or document to contain a Social Security account number ...]
5 USC Sec. 552a Government Organization and Employees	Records maintained on individuals	[In footnote: Section 7 of Pub. L. 93-579 provided that: (a)(1) 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 individual's refusal to disclose his Social Security account number .
7 USC Sec. 1308-1 Agriculture	Prevention of creation of entities to qualify as separate persons; payments limited to active farmers	A person ... that receives farm program payments ... shall provide ... name and social security number ...
7 USC Sec. 1631 Agriculture	Protection for purchasers of farm products	... the Secretary of State compiles ... in numerical order according to the social security number A buyer of farm products takes subject to a security interest created by the seller if ... received ... notice of the security interest ... [that contains] ... the social security number of the debtor ...
7 USC Sec. 2020 Agriculture	Food Stamp Program – Administration	... social security number ... shall be made available [to] ... law enforcement ...
7 USC Sec. 2025 Agriculture	Food Stamp Program – Administrative cost-sharing and quality control	... require, as a condition of eligibility for ... food stamp ... furnish ... Social Security account number ...
7 USC Sec. 2204g Agriculture	Authority of Secretary of Agriculture to conduct census of agriculture	The failure or refusal of a person to disclose the person's social security number in response to a request made in connection with any census or other activity under this section shall not be a violation ...
8 USC Sec. 1101 Aliens And Nationality	General Provisions – Definitions	... Memorandum of President of the United States, Feb. 7, 1995, 60 F.R. 7885, provided: ... The Administration fully supports the recommendation of the Commission on Legal Immigration Reform to create pilot projects to test various techniques for improving workplace verification, including a computer database test to validate a new worker's social security number for work authorization purposes. ...

Code	Title	Purpose
8 USC Sec. 1183a Aliens And Nationality	Requirements for sponsor's affidavit of support	... (1) An affidavit of support shall include the Social Security account number of each sponsor. (2) The Attorney General shall develop an automated system to maintain the Social Security account number data ...
8 USC Sec. 1304 Aliens And Nationality	Registration of Aliens – Forms for registration and fingerprinting	... Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide ... Social Security account number for purposes of inclusion in any record of the alien ...
8 USC Sec. 1324a Aliens And Nationality	Unlawful employment of aliens	... if the person or entity is an agricultural ... (C) Documents evidencing employment authorization A document described in this subparagraph is an individual's – (i) Social Security account number card [Memorandum of President of the United States, Feb. 10, 1992, 57 F.R. 24345, provided: ... directs the Secretary of Health and Human Services to issue social security number cards to individuals who are assigned social security numbers [“SEC. 403. Procedures for Participants in Pilot Programs. ... (1) Provision of additional information. – The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I-9 or similar form – (A) the individual's Social Security account number , if the individual has been issued such a number ...
8 USC Sec. 1360 Aliens And Nationality	Immigration – Establishment of central file; information from other departments and agencies	There shall be established in the office of the Commissioner ... (c) Reports on Social Security account numbers and earnings of aliens not authorized to work ...
10 USC Sec. 1408 Armed Forces – Personnel	Payment of retired or retainer pay in compliance with court	... the court order or other documents served with the court order identify the member concerned and include, <i>if possible</i> , the social security number of such member; and
11 USC Appendix - Bankruptcy Rules	Rule 1005 – Caption of Petition	The title of the case shall include the name, social security number and employer's tax identification number of the debtor and all other names used by the debtor within six years before filing the petition.
11 USC Sec. 110 Bankruptcy	Penalty for persons who negligently or fraudulently prepare bankruptcy petitions	(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.
15 USC Sec. 6305 Commerce and Trade – Professional Boxing Safety	Registration	Identification card ... contains ... The social security number of the boxer (or ...
15 USC Sec. 6501 Commerce and Trade – Children's Online Privacy Protection	Definitions	The term “personal information” means ... (E) a social security number ;
18 USC Sec. 1028 Crimes And Criminal Procedure	Fraud and related activity in connection with identification	... the term “means of identification” means ... (A) name, social security number , ...
18 USC Sec. 2425 Crimes And Criminal Procedure	Use of interstate facilities to transmit information about a minor	... knowingly initiates the transmission of the name, address, telephone number, social security number , or electronic mail address ...
18 USC Sec. 2725 Crimes And Criminal Procedure	Definitions	(3)“personal information” means ..., social security number , ...
18 USC Sec. 3612 Crimes And Criminal Procedure	Collection of unpaid fine or restitution	(b) Information to be Included in Judgment ... (A) the name, Social Security account number , ... including ...
18 USC Sec. 842 Crimes And Criminal Procedure	Unlawful acts	(f) It shall be unlawful for any licensee ... to ... receive explosive materials without making such records ...including ... social security number
20 USC Chapter 28 Education	Higher Education Resources And Student Assistance	... (f) Verification of immigration status and social security number .

Code	Title	Purpose
20 USC Sec. 1078-2 Education	Federal PLUS loans	(f) Verification of immigration status and social security number
20 USC Sec. 1078 Education	Federal payments to reduce student interest costs	... a guaranty agency shall provide – (i) the name and the social security number of the borrower; and ...
20 USC Sec. 1090 Education	Forms and regulations	... The Secretary is authorized to include on the form developed under this subsection space for the social security number ... Any financial aid application ... shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer ...
20 USC Sec. 1091 Education	Student eligibility	which shall include – ... (B) such student's social security number , shall verify any social security number provided by a student ...
20 USC Sec. 1092 Education	Institutional and financial assistance information for students	Each eligible institution shall require ... corrections ... social security number ...
21 USC Sec. 360i Food and Drugs	Records and reports on devices	(2) Any patient receiving a device ... may refuse to release ... social security number ...
22 USC Sec. 2671 Foreign Relations and Intercourse	Emergency expenditures	With regard to the repatriation loan ... require the borrower to provide a verifiable address and social security number ...
26 USC Appendix - Rules of Tax Court	Rule 175 – Pleadings	Petition ... shall ... contain ... social security number ...
26 USC Appendix - Rules Of Tax Court	Rule 260 – Proceeding to Enforce Overpayment Determination	... A motion to enforce ... shall contain ... social security number ...
26 USC Appendix - Rules Of Tax Court	Rule 261 – Proceeding to Redetermine Interest on Deficiency	... A motion to redetermine interest ... shall contain ... social security number ...
26 USC Appendix - Rules Of Tax Court	Rule 271 – Commencement of Action for Administrative Costs	... Petition for Administrative Costs ... shall contain ... social security number ...
26 USC Appendix - Rules Of Tax Court	Rule 281 – Commencement of Action for Review of Failure to Abate Interest	... Petition for Review ... shall contain ... social security number ...
26 USC Appendix - Rules Of Tax Court	Rule 291 – Commencement of Action for Redetermination of Employment Status	... Petition for Redetermination ... shall contain ... social security number ...
26 USC Appendix - Rules Of Tax Court	Rule 34 – Petition	... Petition in Deficiency ... shall contain ... social security number ...
26 USC Sec. 25 Internal Revenue Code	Interest on certain home mortgages	... Each person who makes a loan which is a certified indebtedness amount under any mortgage credit certificate shall file a report with the Secretary containing – (1) the name, address, and Social Security account number of ...
26 USC Sec. 32 Internal Revenue Code	Earned income	... a taxpayer identification number means a social security number issued ...
26 USC Sec. 3402 Internal Revenue Code	Income tax collected at source	... A request that an annuity or any sick pay be subject to withholding under this chapter – (A) shall be made by the payee in writing to the person making the payments and shall contain the social security number of the payee The preceding sentence shall not apply with respect to sick pay paid pursuant to any agreement to any individual unless the social security number of such individual is furnished ...
26 USC Sec. 6051 Internal Revenue Code	Receipts for employees	Every person required to deduct and withhold from an employee ... the name of the employee (and his Social Security account number Statements required in case of sick pay paid by third parties ... showing ... the social security number of such employee ...

Code	Title	Purpose
26 USC Sec. 6103 Internal Revenue Code	Confidentiality and disclosure of returns and return information	... Internal Revenue Service may ... disclose ... information from the master files of the Internal Revenue Service relating to the Social Security account number disclosed to any child support enforcement agency ... address and Social Security account number ...
26 USC Sec. 6109 Internal Revenue Code	Identifying numbers	When required by regulations ... the identifying number of an individual (or his estate) shall be such individual's Social Security account number The Social Security account number ... shall ... be used as the identifying number for such individual for purposes of this title. ... Employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation ... subject to appropriate safeguards including a prohibition against the release of such Social Security account numbers ...
28 USC Sec. 3205 Judiciary and Judicial Procedure	Garnishment	... The United States shall include in its application for a writ of garnishment – (A) the judgment debtor's name, social security number (if known) ...
38 USC Sec. 5101 Veterans' Benefits	Claims and forms	... A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.
42 USC Chapter 44 Public Health and Welfare	Department Of Housing And Urban Development	(a) Disclosure of Social Security account number .
42 USC Sec. 1307 Public Health and Welfare	Penalty for fraud	... Whoever, with the intent to elicit information as to the Social Security account number ... shall be deemed guilty of a felony ...
42 USC Sec. 1320a-3 Public Health and Welfare	Disclosure of ownership and related information; procedure; definitions; scope of requirements	... as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary ... shall ... supply the Secretary with ... Social Security account number ... [for] each person with an ownership ...
42 USC Sec. 1320b-7 Public Health and Welfare	Income and eligibility verification system	... the State shall require, as a condition of eligibility for benefits [unemployment insurance, etc.] under any program listed in subsection (b) of this section, that each applicant for or recipient of benefits under that program furnish to the State his Social Security account number ...
42 USC Sec. 1382 Public Health and Welfare	Eligibility for benefits	the institution shall provide ... Social Security account numbers Commissioner shall furnish ... law enforcement ... social security number ...
42 USC Sec. 1383 Public Health and Welfare	Procedure for payment of benefits	(ii) As part of the investigation ... the Commissioner ... shall ... (II) verify the Social Security account number ...
42 USC Sec. 1437z Public Health and Welfare	Exchange of information with law enforcement agencies	Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 1437d or 1437f of this title with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, social security number ...
42 USC Sec. 1758 Public Health and Welfare	School Lunch Programs – Program requirements	(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the Social Security account number of the parent ...
42 USC Sec. 3543 Public Health and Welfare	Preventing fraud and abuse in Department of Housing and Urban Development programs	As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her Social Security account number or employer identification number to the Secretary.

Code	Title	Purpose
42 USC Sec. 402 Public Health and Welfare	Old-age and survivors insurance benefit payments	(3) Notwithstanding the provisions of section 552a of title 5 or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Commissioner of Social Security, upon written request, the name and Social Security account number of any individual who is confined as described in paragraph
42 USC Sec. 405 Public Health and Welfare	Federal Old-age, Survivors, and Disability Insurance Benefits – Evidence, procedure, and certification for payments	... the Commissioner of Social Security shall take affirmative measures to assure that Social Security account numbers will ... be assigned ... (C)(i) It is the policy of the United States that any State ... may ... utilize the Social Security account numbers issuance of a birth certificate, each State shall require each parent to furnish to such State ... the Social Security account number ... issued to the parent ... unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure. ... the Secretary of Agriculture may require each [food stamp] applicant retail store or wholesale food concern to furnish to the Secretary of Agriculture the Social Security account number of each individual who is an officer ... (ii) The Commissioner of Social Security shall require of applicants for Social Security account numbers such evidence ... (II) The Secretary of Agriculture may share any information ... with any other agency ... of the United States which otherwise has access to Social Security account numbers Federal Crop Insurance Corporation shall [not] have access to any such [social security] number for any purpose ... The Manager of the Corporation may require each policyholder to provide ... the Social Security account number of each ... policyholder. (I) any State ... and any authorized blood donation facility may utilize the Social Security account numbers ... for ... identifying blood donors (I) any State ... may utilize the Social Security account numbers ... if such numbers have been collected ... in accordance with applicable law ... [see section 7(a) of the Privacy Act of 1974] (F) ... [to receive benefits] The Commissioner ... shall require ... a Social Security account number ... (G) The Commissioner ... shall issue a social security card (ii) The Commissioner ... shall ... maintain ... file ... [of] names and Social Security account numbers ...
42 USC Sec. 408 Public Health and Welfare	Penalties	[shall be guilty of a felony] ... (A) willfully, knowingly, and with intent to deceive, uses a Social Security account number (8) discloses, uses, or compels the disclosure of the social security number ... in violation of the laws ...
42 USC Sec. 503 Public Health and Welfare	Grants to States for Unemployment Compensation Administration- State laws	... (A) the term “wage information” means information regarding wages paid to an individual, the Social Security account number of such individual ...
42 USC Sec. 652 Public Health and Welfare	Child Support and Establishment of Paternity – Duties of Secretary	(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the noncustodial parent's Social Security account number ...
42 USC Sec. 653a Public Health and Welfare	Child Support and Establishment of Paternity – State Directory of New Hires	... each employer shall furnish to the Directory of New Hires ... the name, address, and social security number of the employee State Directory of New Hires shall provide the agency ... the name, address, and social security number ...
42 USC Sec. 653 Public Health and Welfare	Child Support and Establishment of Paternity – Federal Parent Locator Service	... the Federal Parent Locator Service shall obtain and transmit to ... the individual's social security number The Social Security Administration shall verify ... (i) The name, social security number ...

Code	Title	Purpose
42 USC Sec. 654a Public Health and Welfare	Child Support and Establishment of Paternity – Automated data processing	... Such records shall use standardized data elements for both parents (such as names, social security numbers ...
42 USC Sec. 666 Public Health and Welfare	Child Support and Establishment of Paternity – Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement	In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures[:] [•]... which the State child support enforcement agency shall request ... Social Security account number ... [•]... requiring that the social security number ... (A) any applicant for a ... license be recorded on the application ... [•]... with financial institutions doing business in the State ... to provide ... social security number ... for each noncustodial parent ...
42 USC Sec. 1320a-3a Public Health and Welfare	Disclosure requirements for other providers under part B of Medicare	... and Social Security account number of the ... part B provider The Secretary shall transmit – ... each Social Security account number ...
42 USC Sec. 1320b-11 Public Health and Welfare	Blood donor locator service	... Whenever the Commissioner of Social Security receives a request, filed by an authorized person ... A request ... shall include the blood donor's Social Security account number ...
42 USC Sec. 1320b-13 Public Health and Welfare	Social security account statements	... eligible ... means an individual who – ... has a Social Security account number ...
46 USC Sec. 12103 Shipping	Documentation of Vessels – Certificates of documentation	... The Secretary shall require each ... person's social security number ...
46 USC Sec. 12501 Shipping	Establishment of a vessel identification system	... (A) the owner's social security number or, if that number is not available ...
46 USC Sec. 12503 Shipping	Vessel Identification System – Information available to the system	... (A) the owner's social security number or, if that number is not available ...
49 USC Sec. 30304 Transportation	National Driver Register – Reports by chief driver licensing officials	... (C) the Social Security account number if used by the State for driver record or motor vehicle license purposes ...
49 USC Sec. 30502 Transportation	National Motor Vehicle Title Information System	... The Attorney General may authorize the operation ... The operator may not collect an individual's Social Security account number or permit users of the System to obtain an individual's address or Social Security account number
49 USC Sec. 31308 Transportation	Commercial driver's license	... the license contain ... (B) the Social Security account number or other number or information ... appropriate to identify the individual
49 USC Sec. 31309 Transportation	Commercial driver's license information system	... shall include for each operator ... (C) the Social Security account number of the operator or other number or information ... appropriate to identify the operator...
50 USC Appendix - War and National Defense	Selective Service Act – Offenses and penalties	... The President may require the Secretary of Health and Human Services to furnish ... name, date of birth, Social Security account number , and address ...
50 USC Sec. 453	Selective Service Act – Registration	... may require ... identifying information (including date of birth, address, and Social Security account number) ...

United States Code of Federal Regulations

This section is a list of the all of the applicable regulations dealing with the social security number. You will find it contains a lot of important information and will be a valuable resource when asserting your rights.

To avoid a lot of unnecessary overhead each item contain enough excerpt to establish the content of the topic. You can read the entire law or section on the Web.

Table 5 Title 4 Accounts

Code	Title	Purpose
4 CFR 83.9	Social security number.	(a) GAO may not require individuals to disclose their social security number (SSN) unless disclosure would be required ... Under ... statute ... (b) Individuals ... shall suffer no penalty or denial of benefits for refusing to provide it.
4 CFR 83.12	Procedures for individual access to records.	... (b) The general identifying information items that the designated GAO official may ask to be furnished before a specific inquiry is granted include: ... (4) social security number ...

Table 6 Title 5 Administrative Personnel

Code	Title	Purpose
5 CFR 2502.16	Information to be disclosed.	In such a case, the Office would withhold names, home addresses, salaries, telephone numbers, social security numbers, ...

Table 7 Title 7 Agriculture

Code	Title	Purpose
7 CFR 1.123	Specific exemptions.	... Sec. 6 Social security account numbers. (a) No agency shall deny, or permit any State or local government with whom it is involved in a cooperative venture to deny, to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security account number. (b) Paragraph (a) of this section shall not apply with respect to: (1) Any disclosure required by Federal statute; or (2) Any disclosure to any agency relating to a system of records it maintained prior to January 1, 1975, if such disclosure was required under statute or regulation adopted prior to that date, to verify the identity of an individual. (c) Any agency in the Department which requests an individual to disclose his or her social security account number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it. The agency shall also insure that this information is provided by a State or local government with whom it is involved in a cooperative agreement. ...
7 CFR 226.23	Free and reduced-price meals.	... (C) The social security number of the adult household member who signs the application, or an indication that he/she does not possess a social security number; ...
7 CFR 245.6a	Verification requirements.	... eligibility for free or reduced price meals. These households shall be advised of the type or types of information and/or documents acceptable to the school. This information must include a social security number for each adult household member or an indication that such member does not have one. ...
7 CFR 273.6	Social security numbers.	... The State agency shall require that a household participating or applying for participation in the Food Stamp Program provide the State agency with the social security number (SSN) of each household member or apply for one before certification. ...
7 CFR 278.1	Approval of retail food stores and wholesale food concerns.	... (5) Taxpayer identification numbers. At the time of an initial request for authorization as well as reauthorization, an applicant firm must provide its employer identification number and social security numbers as described below: ...
7 CFR 400.401	Basis and purpose and applicability.	(a) The regulations contained in this subpart are issued pursuant to the Act to prescribe procedures for the collection, use, and confidentiality of Social Security Numbers (SSN) and Employer Identification Numbers (EIN) and related records.
7 CFR 400.406	Insurance provider responsibilities.	The insurance provider is required to collect and record the SSN or EIN on each application or on any other form required by FCIC.
7 CFR 400.409	Unauthorized disclosure.	Anyone having access to the records identifying a participant's SSN or EIN will abide by the provisions of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)), and section 6109(f), Internal Revenue Code of 1986 (26 U.S.C. 6109(f)) and the Privacy Act of 1974 (5 U.S.C. 552a). All records are confidential, and are not to be disclosed to unauthorized personnel.
7 CFR 400.410	Penalties.	Unauthorized disclosure of SSN's or EIN's by any person may subject that person, and the person soliciting the unauthorized disclosure, to civil or criminal sanctions imposed under various Federal statutes, including 26 U.S.C. 7613, 5 U.S.C. 552a, and 42 U.S.C. 408.
7 CFR 1965.92	Information to be provided to IRS on RRH transfers, voluntary conveyances, foreclosures, and 100% membership changes.	... Exhibit A to this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) must be completed for each project affected with particular attention given to supplying the Employer Identification and/or the Social Security numbers of the parties involved. ...

Table 8 Title 8 Aliens and Nationality

Code	Title	Purpose
8 CFR 103.35	Use and collection of Social Security numbers .	The use and collection of Social Security numbers shall be in accordance with 28 CFR 16.56.

Table 9 Title 9 Animals and Animal Products

Code	Title	Purpose
9 CFR 93.106	Quarantine requirements.	... (2) To provide a current list of designated personnel employed by the Importer who will be used to handle and care for birds during the quarantine period. The list will include the legal names, current residential addresses, and social security numbers of the designated personnel. ...

Table 10 Title 10 Energy

Code	Title	Purpose
10 CFR 1008.22	Use and collection of social security numbers.	(a) The System Manager of each system of records which utilizes social security numbers as a method of identification without statutory authorization or authorization by regulation adopted prior to January 1, 1975, shall revise the system to avoid future collection and use of the social security numbers. (b) Heads of Headquarters Divisions and Offices and heads of the other DOE locations shall insure that employees authorized to collect information from individuals are advised that individuals may not be required to furnish social security numbers without statutory authorization, and that individuals who are requested to provide social security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

Table 11 Title 12 Banks and Banking

Code	Title	Purpose
12 CFR 21.11	Suspicious Activity Report.	... A national bank shall file a SAR ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported. ...
12 CFR 203.6	Enforcement.	Make sure that all numbers are unique within your institution. If your register contains data for branch offices, for example, you could use a letter or a numerical code to identify the loans or applications of different branches, or could assign a certain series of numbers to particular branches to avoid duplicate numbers. You are strongly encouraged not to use the applicant's or borrower's name or social security number , for privacy reasons.
12 CFR 205.11	Procedures for Resolving Errors	... The notice of error is effective even if it does not contain the consumer's account number, so long as the financial institution is able to identify the account in question. For example, the consumer could provide a social security number or other unique means of identification.

Code	Title	Purpose
12 CFR 208.62	Suspicious activity reports.	... A member bank shall file a SAR ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias," then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' licenses or social security numbers, addresses and telephone numbers, must be reported. ...
12 CFR 353.3	Reports and records.	... A bank shall file a suspicious activity report ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias", then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as driver's license or social security numbers, addresses and telephone numbers, must be reported; ...
12 CFR 563b.3	General principles for conversions.	Regarding conversions from mutual to stock form: ... The liquidation subaccount of an account holder shall be maintained for as long as the account holder maintains an account with the same social security number .
12 CFR 563b.27	Application for voluntary supervisory stock conversion.	... (a) A plan of conversion adopted by a majority of the directors of the association, which shall contain at a minimum the name and address of the savings association; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the savings association; ...
12 CFR 563.180	Suspicious Activity Reports and other reports and statements.	... savings associations and service corporations file a Suspicious Activity Report ... If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported. ...
12 CFR 792.36	Use and collection of Social Security numbers .	The head of each NCUA Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required without statutory or regulatory authorization to furnish Social Security numbers, and that individuals who are requested to provide Social Security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.
12 CFR 792.55	Times, places, and requirements for identification of individuals making requests and identification of records requested.	... (c) An individual may request by telephone notification ... the NCUA official responding to the request shall require, for the purpose ... of identity, at least two items of identifying information (such as date of birth, home address, social security number) already possessed by the NCUA.
12 CFR 792.63	Collection of information from individuals; information forms.	(a) The system manager, as identified in the "Notice of Systems of Records" published in the Federal Register for each system of records maintained by the Administration, shall be responsible for ... (5) To ensure that any form requesting disclosure of a social security number , or an accompanying statement, clearly advises the individual of the statute or regulation requiring disclosure of the number, or clearly advises the individual that disclosure is voluntary and that no consequence will flow from a refusal to disclose it, and the uses that will be made of the number whether disclosed mandatorily or voluntarily.
12 CFR 792.68	Use and collection of social security numbers .	The head of each NCUA Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required without statutory or regulatory authorization to furnish social security numbers , and that individuals who are requested to provide social security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

Table 12 Business Credit and Assistance

Code	Title	Purpose
13 CFR 102.24	What is a record?	A record is information which SBA maintains on an individual and which includes either his name or an identifying symbol (such as a fingerprint, a social security number ("SSN"), or a photograph).
13 CFR 102.34	How can I see records kept on me?	... The Systems Manager may ask you for your social security number but you are not obliged to present it and your request will not be denied simply because you do not provide it. The Systems Manager may, however, deny your request if he or she cannot determine that you are the person to whom the information pertains.

Table 13 Title 14 Aeronautics and Space

Code	Title	Purpose
14 CFR 61.29	Replacement of a lost or destroyed airman or medical certificate or knowledge test report.	... (d) The letter requesting replacement ... must state: ... (3) The social security number; ...
14 CFR 63.16	Change of name; replacement of lost or destroyed certificate.	... (b) An application for a replacement ... The letter must-- (1) ... social security number (if any), ...
14 CFR 65.16	Change of name: Replacement of lost or destroyed certificate.	... (b) An application for a replacement ... The letter must-- (1) ... social security number (if any), ...
14 CFR 1212.604	Social security numbers.	(a) It is unlawful for NASA to deny to individuals any rights, benefits, or privileges provided by law because of the individuals' refusal to disclose their social security numbers, except where: ...

Table 14 Title 16 Commercial Practices

Code	Title	Purpose
16 CFR 603	Definitions and Rules of Construction	... To be a "consumer report," the information must bear on at least one of the seven characteristics listed in this definition. B. Credit guides. Credit guides are listings, furnished by credit bureaus to credit grantors, that rate how well consumers pay their bills. Such guides are a series of "consumer reports," because they contain information which is used for the purpose of serving as a factor in establishing the consumers' eligibility for credit. However, if they are coded (by identification such as social security number , driver's license number, or bank account number) so that the consumer's identity is not disclosed, they are not "consumer reports" until decoded.

Table 15 Title 17 Commodity and Securities Exchanges_

Code	Title	Purpose
17 CFR 239.144	Form 144, for notice of proposed sale of securities pursuant to Sec. 230.144 of this chapter.	... Social security account numbers, if furnished, will assist the Commission in identifying persons desiring to sell unregistered securities and, therefore, in promptly processing notices of proposed sale of securities. ...
17 CFR 249.501a	Form BDW, notice of withdrawal from registration as broker-dealer pursuant to Sec. 240.15b6-1, Sec. 240.15Bc3-1, or Sec. 240.15Cc1-1 of this chapter.	... except for social security account numbers, disclosure of which is voluntary. ...

Table 16 Title 18 Conservation of Power and Water Resources__

Code	Title	Purpose
18 CFR 3b.202	Collection of information from individuals concerned.	(c) Social security numbers will not be required from individuals whom the Commission asks to supply information unless the disclosure of the number is required by Federal statute or unless disclosure is to the Commission maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required pursuant to a statute or regulation adopted prior to such date to verify the identity of an individual. When an individual is requested to disclose his social security number to the Commission, he will be informed under what statutory or other authority such number is solicited, what uses will be made of it, whether disclosure is mandatory or voluntary, and if it is mandatory, under what provisions of law or regulation.

Table 17 Title 19 Customs Duties

Code	Title	Purpose
19 CFR 4.3	Permits and special licenses for unloading and lading.	(m) A permit to unlade pursuant to this part 4 or part 122 of this chapter shall not be granted to an importing carrier, and a term permit to unlade previously granted to such a carrier shall be revoked, (1) if such carrier, within 30 days after the date of receipt of a written demand by the port director, does not furnish a written list of the names, addresses, social security numbers, ...
19 CFR 19.3	Bonded warehouses; alterations; relocation; suspensions; discontinuance.	(d) Employee lists. The port director may make a written demand upon the proprietor to submit, within 30 days after the date of demand, a written list of the names, addresses, social security numbers, and dates and places of birth of all persons employed by the proprietor in the carriage, receiving, storage, or delivery of any bonded merchandise. ...
19 CFR 19.46	Employee lists.	A permit shall not be granted to an operator to transfer a container or containers to a container station, if the operator, within 30 calendar days after the date of receipt of a written demand by the port director, does not furnish a written list of names, addresses, social security numbers, and dates and places of birth of persons employed by him in connection with the movement, receipt, storage or delivery of imported merchandise.
19 CFR 24.5	Filing identification number.	... (2) If neither an Internal Revenue Service employer identification number nor a social security number has been assigned, the word "None" shall be written on the line provided for each of these numbers on Customs Form 5106 and the form shall be filed in duplicate. (c) Assignment of importer identification number. Upon receipt of a Customs Form 5106 without an Internal Revenue Service employer identification number or a social security number , an importer identification number shall be assigned ...
19 CFR 24.24	Harbor Maintenance Fee	(i) Privacy Act notice. Whenever an identification number is requested on the summary sheets ... the disclosure of the social security number is mandatory when an internal revenue service number is not disclosed. Identification numbers ... required in the course of shipping or importing merchandise ...
19 CFR 24.26	Automated Clearinghouse credit.	(a) Description. Automated Clearinghouse (ACH) credit ... payer identifier (importer number or social security number or Customs assigned number or filer code if the ...
19 CFR 111.28	Responsible supervision.	(a) General rule. Every licensed [Customs] broker ... a list of the names of persons currently employed at that port. For each such employee, the broker also shall provide the current home address, last prior home address, social security number , date and place of birth, and ...
19 CFR 113.37	Corporate sureties.	(a) Lists of corporations and limits of their bonds. ... (d) social security number of agent or attorney on the bond.

Code	Title	Purpose
19 CFR 118.11	Contents of application.	(f) A list of all employees involved in the CES operation setting forth their names, dates of birth, and social security numbers . (Providing social security numbers is voluntary; however, failure to provide the number may hinder the investigation process.);
19 CFR 122.25	Exemption from special landing requirements.	Note. Where the social security number is requested, furnishing of the SSN is voluntary. ... The SSN will be made available to Customs personnel on a need-to-know basis. Failure to provide the SSN may result in a delay in processing of the application;
19 CFR 146.7	Zone changes.	(g) List of officers, employees, and other persons. The port director may make a written demand upon the operator to submit, within 30 days after the date of the demand, a written list of the names, addresses, social security numbers, ...
19 CFR 201.25	Times, places, and requirements for identification of individuals making requests.	... In order to help the identification and location of requested records, a requestor may also, at his or her option, include the individual's social security number .

Table 18 Title 20 Employees' Benefits

Code	Title	Purpose
20 CFR 10.100	How and when is a notice of traumatic injury filed?	(a) To claim benefits under the FECA ... The person submitting a notice shall include the social security number (SSN) of the injured employee.
20 CFR 10.101	How and when is a notice of occupational disease filed?	(a) To claim benefits under the FECA ... The person submitting a notice shall include the social security number (SSN) of the injured employee.
20 CFR 200.5	Protection of privacy of records maintained on individuals.	(c) Procedure for requesting ... personally identifiable records ... maintained by the Railroad Retirement Board ... provide identifying data, such as his full name, date of birth, and social security number . (p) Disclosure of social security account numbers . Whenever an individual is requested by the Railroad Retirement Board to disclose his social security account number he shall be informed as to whether such disclosure is mandatory or voluntary. If disclosure of the individual's social security account number is mandatory, he shall be informed of the statutory authority requiring such disclosure.
20 CFR 209.3	social security number required.	Each employer shall furnish to the [Railroad] Board a social security number for each employee for whom any report is submitted to the Board. Employers are encouraged to validate any social security number provided under this section.
20 CFR 209.13	Employers' gross earnings reports.	(a) ... The gross earnings sample is based on the earnings of employees whose social security numbers end with the digits 30.
20 CFR 266.4	Information considered in selecting a representative payee.	... In selecting a representative payee, the [Railroad] Board ... may consider such factors as the following: ... (f) Verification of the social security account number , name, address, telephone number, place of employment, ...
20 CFR 295.3	Documentation and service.	(a) Court decree or property settlement. The [Railroad] Board will honor a court decree or a property settlement which ... (2) Identifying information concerning the spouse or former spouse such as social security number , full name, and current address.
20 CFR 341.3	Notice of lien.	(a) Notice to alleged tortfeasor. The Board shall mail a "Notice of Lien" to each person ... The notice shall include: (1) The employee's name, address and social security number ; ...

Code	Title	Purpose
20 CFR 401.25	Terms defined.	... Information means information about an individual, and includes, but is not limited to, vital statistics; race, sex, or other physical characteristics; earnings information; professional fees paid to an individual and other financial information; benefit data or other claims information; the social security number , employer identification number, or other individual identifier; address; ...
20 CFR 401.60	Access or notification of program records about two or more individuals.	When information about two or more individuals is in one record filed under your social security number ...
20 CFR 401.200	Blood donor locator service.	... (c) Use of social security number for identification. A State or an authorized person in the State may require a blood donor to furnish his or her social security number when donating blood.
20 CFR 402.100	Exemption six: Clearly unwarranted invasion of personal privacy.	(c) Examples. Some of the information that we frequently withhold under Exemption Six is: Home addresses, ages, and minority group status of our employees or former employees; social security numbers; ...
20 CFR 404.401	Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.	... (d) Nonpayments. Nonpayment of monthly benefits may be required because: ... (4) The individual has not provided satisfactory proof that he or she has a social security number or has not properly applied for a social security number ...
20 CFR 404.469	Nonpayment of benefits where individual has not furnished or applied for a social security number .	No monthly benefits will be paid to an entitled individual unless he or she either furnishes to the Social Security Administration (SSA) satisfactory proof of his or her social security number , or, if the individual has not been assigned a number, he or she makes a proper application for a number (see Sec. 422.103). An individual submits satisfactory proof of his or her social security number by furnishing to SSA the number and sufficient additional information that can be used to determine whether that social security number or another number has been assigned to the individual. Sufficient additional information may include the entitled individual's date and place of birth, mother's maiden name, and father's name. If the individual does not know his or her social security number , SSA will use this additional information to determine the social security number , if any, that it assigned to the individual. This rule applies to individuals who become entitled to benefits beginning on or after June 1, 1989.
20 CFR 404.601	Introduction.	... Part 422 contains the requirements for applying for a social security number .
20 CFR 404.701	Introduction.	... Evidence needed to obtain a social security number card is described in part 422.
20 CFR 404.810	How to obtain a statement of earnings and a benefit estimate statement.	If you have a social security number and have wages or net earnings from self-employment, you may also request ...
20 CFR 404.812	Statement of earnings and benefit estimates sent without request.	... we will send you, without request, a statement of earnings and benefit estimates if: (1) You have a social security account number ; ...
20 CFR 404.902	Administrative actions that are initial determinations.	... (v) Nonpayment of your benefits under Sec. 404.469 because you have not furnished us satisfactory proof of your social security number , or, if a social security number has not been assigned to you, you have not filed a proper application for one; and
20 CFR 404.933	How to request a hearing before an administrative law judge.	(a) Written request. You may request a hearing by filing a written request. You should include in your request — (1) The name and social security number of the wage earner; ...
20 CFR 404.1225	Records – for wages paid prior to 1987.	(a) Who keeps the records. Every State which enters into an agreement shall keep ... records shall show for each employee: (1) The employee's name, address, and social security number ; ...
20 CFR 404.1595	When we determine that you are not now disabled.	... If your dependents are receiving benefits on your social security number and do not live with you, we will also give them advance notice.

Code	Title	Purpose
20 CFR 404.1596	Circumstances under which we may suspend your benefits before we make a determination.	... benefits ... may be suspended. ... We will contact your spouse and children if they are receiving benefits on your social security number ...
20 CFR 404.1597	After we make a determination that you are not now disabled.	... We will send you ... If your spouse and children are receiving benefits on your social security number ...
20 CFR 416.710	What reports must include.	When you make a report you must tell us (a) The name and social security number under which benefits are paid; ...
20 CFR 422.101	Material included in this subpart.	This subpart describes the procedures relating to applications for and assignment of social security numbers ...
20 CFR 422.103	Social Security Numbers.	(a) General. The Social Security Administration (SSA) maintains a record of the earnings reported for each individual assigned a social security number . The individual's name and social security number identify the record ... Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regulation 26 CFR 31.6011(b)-2. (b) Applying for a number – (1) Form SS-5. An individual needing a social security number may apply for one by filing a signed form SS-5 ... (3) Immigration form. ... an alien need not complete a Form SS-5 with SSA and may request, through DOS or INS, as part of the immigration process, that SSA assign a social security number and issue a social security number card to him/her. A person who is assigned a social security number will receive a social security number card ... social security number cards are the property of SSA and must be returned upon request.
20 CFR 422.104	To whom social security numbers are assigned.	A social security number may be assigned to an applicant who meets the evidence requirements ...
20 CFR 422.106	Filing applications with other government agencies.	(a) Agreements. In carrying out its responsibilities to assign social security numbers , SSA enters into agreements with the United States Attorney General, other Federal officials, and State and local welfare agencies. ... (b) States. SSA and a State may enter into an agreement that authorizes employees of a State or one of its subdivisions to accept social security number card applications from some individuals who apply for or are receiving welfare benefits under a State-administered Federal program.
20 CFR 422.107	Evidence requirements.	(a) General. An applicant for an original social security number card must submit documentary evidence which the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit ...
20 CFR 422.108	Criminal penalties.	A person may be subject to criminal penalties for furnishing false information in connection with earnings records or for wrongful use or misrepresentation in connection with social security numbers , pursuant to section 208 of the Social Security Act and sections of title 18 U.S.C. (42 U.S.C. 408; 18 U.S.C. 1001 and 1546).

Code	Title	Purpose
20 CFR 422.120	Earnings reported without a social security number or with an incorrect employee name or social security number .	(a) Correcting an earnings report. If an employer reports an employee's wages to SSA without the employee's social security number or with a different employee name or social security number than shown in SSA's records for him or her, SSA will write to the employee at the address shown on the wage report and request the missing or corrected information. If the wage report does not show the employee's address or shows an incomplete address, SSA will write to the employer and request the missing or corrected employee information. SSA notifies IRS of all wage reports filed without employee social security numbers so that IRS can decide whether to assess penalties for erroneous filing, pursuant to section 6721 of the Internal Revenue Code. If an individual reports self-employment income to IRS without a social security number or with a different name or social security number than shown in SSA's records, SSA will write to the individual and request the missing or corrected information. ...
20 CFR 422.520	Forms related to maintenance of earnings records.	... SS-5 — Application for a social security number ... OA-702— social security number Card. ... OAAN-5028 — Evidence of Application for social security number Card. ... OAAN-7003— Request for Change in Social Security Records. (For use by an individual to change information given on original application for a social security number .)
20 CFR 422.114	Annual wage reporting process.	... if 90 percent or more of an employer's magnetic media wage reports have no social security numbers or incorrect employee names or social security numbers so that SSA is unable to credit their wages to its records, SSA will not attempt to correct the errors, but will instead return the reports ...
20 CFR 422.710	Procedures SSA will follow.	... (2) SSA employees authorized to listen-in to or record telephone calls are permitted to annotate personal identifying information about the calls, such as a person's name, social security number , address ...

Table 19 Title 21 Food and Drugs Services

Code	Title	Purpose
21 CFR 821.25	Device tracking system and content requirements: manufacturer requirements.	(a) A manufacturer of a tracked device shall adopt a method of tracking for each such type of device that it distributes that enables a manufacturer to provide FDA with the following information ... for life-sustaining or life-supporting devices ... implantation in a patient: ... (iii) The name, address, telephone number, and social security number (if available) of the patient ...
21 CFR 821.30	Tracking obligations of persons other than device manufacturers: distributor requirements.	(a) A distributor, ... of a tracked device for use in or by the patient, shall promptly provide the manufacturer tracking the device with the following information: ... (3) The name, address, telephone number, and social security number (if available) of the patient ...

Table 20 Title 22 Foreign Relations

Code	Title	Purpose
22 CFR 215.3	Procedures for requests pertaining to individual records in a system of records.	... if known, and, to facilitate the retrieval of records contained in those systems of records which are retrieved by social security numbers, ...
20 CFR 503.8	Exemptions.	... (2) Information frequently withheld. We frequently withhold such information as home addresses, ages, minority group status, social security numbers, ...
22 CFR 505.1	Purpose and scope.	... The Agency has also established internal rules restricting requirements of individuals to provide social security account numbers.

Table 21 Title 23 Highways

Code	Title	Purpose
23 CFR 633.302	Applicability.	... g. [Federal highway construction contracts] Each employee's social security number must be shown on the first payroll on which his name appears.
23 CFR 1327.3	Definitions.	... (n) Pointer Record means a report containing the following data: ... name of the State transmitting such information; and ... (3) The social security account number , if used by the reporting State for driver record or motor vehicle license purposes, and ...
23 CFR 1327.5	Conditions for becoming a participating State.	(a) Reporting requirements. (1) The chief driver licensing official in each participating State shall transmit to the NDR a report regarding any individual ... (i) Who is denied a motor vehicle operator's license by such State for cause ... (2) Any report regarding any individual which is transmitted by a chief driver licensing official pursuant to this requirement shall contain the following data: ... (iii) The social security account number , if used by the reporting State ...

Table 22 Title 24 Housing and Urban Development

Code	Title	Purpose
24 CFR 5.210	Purpose, applicability, and Federal preemption.	(a) Purpose. This subpart B requires applicants for and participants in covered HUD programs to disclose, and submit documentation to verify, their social security numbers (SSNs) .
24 CFR 5.212	Compliance with the Privacy Act and other requirements.	(a) Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this subpart shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law. ...
24 CFR 5.214	Definitions.	... Income information means information relating to an individual's income, including: ... including any social security number ; name of the employee; quarterly wages of the employee; and the name, ... social security number (SSN) means the nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration.
24 CFR 5.216	Disclosure and verification of Social Security and Employer Identification Numbers.	... The complete and accurate SSN ... (f) Required documentation – (1) social security numbers . The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN under paragraphs (a) through (d) of this section is a valid SSN card issued by the SSA, or such other evidence of the SSN as HUD and, where applicable, the HA may prescribe in administrative instructions.
24 CFR 5.218	Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.	... The processing entity must deny the eligibility of ... applicant does not meet the applicable SSN disclosure ...
24 CFR 200.6	Employer identification and social security numbers .	The requirements set forth in 24 CFR part 5, regarding the disclosure and verification of social security numbers and employer identification numbers by applicants and participants in assisted mortgage and loan insurance and related programs, apply to these programs.
24 CFR 201.6	Disclosure and verification of Social Security and Employer Identification Numbers.	To be eligible for loan insurance under this part, the borrower must meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by part 200, subpart U, of this chapter.

Code	Title	Purpose
24 CFR 201.22	Credit requirements for borrowers.	... (2) The [HUD] lender ... verify that the borrower's social security number is valid, through such documentation as may be prescribed by the Secretary.
24 CFR 203.35	Disclosure and verification of Social Security and Employer Identification Numbers.	To be eligible for [HUD] mortgage insurance under this part, the mortgagor must meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by part 200, subpart U, of this chapter.
24 CFR 203.674	Eligibility for continued occupancy.	(a) Occupancy because of temporary, permanent, or long-term illness or injury of an individual residing in the property will be limited to a reasonable time, to be determined by the Secretary on a case-by-case basis, and will be permitted only if all the conditions in this paragraph (a) are met: ... (5) The occupant discloses and verifies social security numbers , ...
24 CFR 235.355	Mortgagor's optional recertification.	... See 24 CFR 200.1015(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers for recertifications involving new family members. ...
24 CFR 235.375	Termination, suspension, or reinstatement of the assistance payments contract.	... The assistance payments contract shall be terminated when ... (4) The mortgagee is unable to obtain from the ... (if required) ... disclosure and verification of Social Security Numbers, ...
24 CFR 572.110	Identifying and selecting eligible families for homeownership.	... Require the family to meet the requirements for the disclosure and verification of social security numbers, as provided by part 5, subpart B, of this title; and ...
24 CFR 880.603	Selection and admission of assisted tenants.	... (2) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 5), ...
24 CFR 882.515	Reexamination of family income and composition.	... the PHA must require the family to disclose and verify Social Security Numbers.
24 CFR 884.118	Responsibilities of the owner.	... obtaining and verifying Social Security Numbers submitted by applicants ...
24 CFR 884.218	Reexamination of family income and composition.	... the owner must require the family to disclose and verify Social Security Numbers, ...
24 CFR 886.119	Responsibilities of the owner.	... obtaining and verifying Social Security Numbers submitted by applicants ...
24 CFR 886.124	Reexamination of family income and composition.	... the owner must require the family to disclose and verify Social Security Numbers. ...
24 CFR 886.318	Responsibilities of the owner.	... obtaining and verifying Social Security Numbers submitted by applicants ...
24 CFR 886.324	Reexamination of family income and composition.	... the owner must require the family to disclose and verify Social Security Numbers, ...
24 CFR 891.410	Selection and admission of tenants.	(a) Written procedures. The Owner shall adopt written tenant selection procedures that ensure nondiscrimination in the selection of tenants and that are consistent with the purpose of improving housing opportunities for very low-income elderly persons and persons with disabilities ... Applicant households must meet the disclosure and verification requirements for social security numbers , ...
24 CFR 891.610	Selection and admission of tenants.	... (c) Determination of eligibility ... the disclosure and verification requirements for social security numbers ...
24 CFR 891.750	Selection and admission of tenants.	... Applicant families applying for assisted ... must meet the disclosure and verification requirements for social security numbers ...
24 CFR 960.209	Reexamination of family income and composition.	... the PHA must require the family to disclose and verify Social Security Numbers, ...

Table 23 Title 26 Internal Revenue

Code	Title	Purpose
26 CFR 1.1041-1T	Treatment of transfer of property between spouses or incident to divorce (temporary).	Q-18: How do spouses (or former spouses) elect to have section 1041 ... includes each spouse's social security number and ...
26 CFR 1.121-4	Election.	(a) General rule. A taxpayer may make [revoke] an election under section 121(a) in respect of a particular sale (or may revoke any such election) ... (b) Manner of making election ... statement shall also show ... (4) The names and social security numbers of the owners of the residence ...
26 CFR 1.1445-1	Withholding on dispositions of U.S. real property interests by foreign persons: In general.	... No particular form is required but the notice must set forth the name, address, and taxpayer identification number, if any ... (9) ... an individual's identifying number is the social security number ...
26 CFR 1.1445-2	Situations in which withholding is not required under section 1445(a).	... (2) Transferor's certification of non-foreign status ... furnishes to the transferee a certification that ... (B) Sets forth the transferor's name, identifying number and ... an individual's identifying number is the individual's social security number and ...
26 CFR 1.1445-5	Special rules concerning distributions and other transactions by corporations, partnerships, trusts, and estates.	... (ii) ... An entity or fiduciary that fails to withhold tax with respect to a transfer ... must ... (B) The name, office address, and identifying number (if any) ... an individual's identifying number is the individual's social security number and ...
26 CFR 1.152-4	Support test in case of child of divorced or separated parents.	... (i) The name of the child (or children) being claimed as a dependent ... and social security number of both parents;
26 CFR 1.170A-13	Recordkeeping and return requirements for deductions for charitable contributions.	... (ii) ... A qualified appraisal shall include the following information: ... (E) The name, address, and (if a taxpayer identification number is otherwise required ... (A) The name and taxpayer identification number of the donor (social security number if the donor is an individual or ...
26 CFR 1.1402(e)(1)-1	Election by ministers, members of religious orders, and Christian Science practitioners for self-employment coverage.	... (b) Waiver certificate. The certificate on Form 2031 ... An application for a social security account number filed on Form SS-5 or the filing of an income tax return showing an amount representing self-employment income or self-employment tax shall not be construed to constitute an election ...
26 CFR 1.1402(g)-1	Treatment of certain remuneration erroneously reported as net earnings from self-employment.	... (b) Request for validation. ... information shall be shown ... (i) The name, address, and social security account number of ...
26 CFR 1.1402(a)-11	Ministers and members of religious orders.	... (c) Minister in a foreign country ... desires to have the Federal old-age, survivors, and disability insurance system established ... shall include ... (b) His social security account number , if he has one. ...
26 CFR 1.215-1T	Alimony, etc., payments (temporary).	... information is required by the Internal Revenue Service when ... maintenance payment is claimed as a deduction ... payee's social security number ...
26 CFR 1.44-3	Certificate by seller.	... Taxpayers claiming the credit should attach Form 5405, Credit for Purchase or Construction of New Principal Residence ... I certify ... before ... 1975 ... sold ... to (state name ... social security number of purchaser) ...
26 CFR 1.6050L-1	Information return by donees relating to certain dispositions of donated property.	... (3) The name and taxpayer identification number of the donor (social security number if the donor is an individual ...
26 CFR 1.6052-1	Information returns regarding payment of wages in the form of group-term life insurance.	... Every employer, who ... provides ... employees remuneration ... of group-term life insurance ... includes ... social security number of the employee ...
26 CFR 1.6017-1	Self-employment tax returns.	(c) ... Every individual making a return ... before January 1, 1962, is required to ... social security account number ... failure to apply for or receive a social security account number will not excuse the individual ...

Code	Title	Purpose
26 CFR 1.6109-2	Furnishing identifying number of income tax return preparer.	... Each return of tax ... or claim for refund ... prepared by ... such preparer's social security account number ...
26 CFR 1.6696-1	Claims for credit or refund by income tax return preparers.	... (2) A preparer may file ... (2) The preparer's identification number. ...
26 CFR 1.860E-2	Tax on transfers of residual interests to certain organizations.	... Transferee furnishes ... (A) A social security number ...
26 CFR 1.897-1	Taxation of foreign investment in United States real property interests, definition of terms.	... (p) Identifying number. The "identifying number" of an individual is the individual's United States social security number
26 CFR 1.911-7	Procedural rules.	... individual must elect, separately with respect to each exclusion, to exclude foreign earned income ... statement shall include ... (i) The individual's name, address, and social security number ;
26 CFR 11.415(c)(4)-1	Special elections for section 403(b) annuity contracts purchased by educational institutions, hospitals and home health service agencies.	... (C) election limitation" ... must include the individual's name, address and social security number
26 CFR 301.7811-1	Taxpayer assistance orders.	... (b) ... The application for a taxpayer assistance ... shall contain ... (i) Name, social security number ...
26 CFR 301.6320-1T	Notice and opportunity for hearing upon filing of notice of Federal tax lien (temporary).	... Q-C1. What must a taxpayer do to obtain a CDP hearing? ... request ... taxpayer's name, address, daytime telephone number, and taxpayer identification number (SSN or TIN);
26 CFR 301.6330-1T	Notice and opportunity for hearing prior to levy (temporary).	... Q-C1. What must a taxpayer do to obtain a CDP hearing? ... request ... taxpayer's name, address, daytime telephone number, and taxpayer identification number (SSN or TIN). ...
26 CFR 301.6057-1	Employee retirement benefit plans; identification of participant with deferred vested retirement benefit.	(a) Annual registration statement ... (4) Filing requirements. Information relating to the deferred vested retirement benefit ... There shall be filed on schedule SSA the name and social security number of the participant ...
26 CFR 301.6109-1	Identifying numbers.	... There are generally three types of taxpayer identifying numbers : social security numbers , Internal Revenue Service (IRS) individual taxpayer identification numbers , and employer identification numbers. social security numbers take the form 000-00-0000 ... Any individual required ... shall apply for one ... Individuals who are ineligible for or do not wish to participate in the benefits of the social security program shall nevertheless obtain a social security number if they are required to furnish such a number ... Any individual who is duly assigned a social security number or who is entitled to a social security number will not be issued an IRS individual taxpayer identification number. ... (c) Requirement to furnish another's number. Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph (b)(2)(i), (ii), or (iii) of this section as required by the forms and the accompanying instructions. If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, such person must request the other person's number. A request should state that the identifying number is required to be furnished under authority of law. When the person making 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, such person must sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A person required to file a taxpayer identifying number shall correct any errors in such filing when such person's attention has been drawn to them.

Code	Title	Purpose
26 CFR 301.6109-1T	Identifying numbers (temporary).	... There are four principal types of taxpayer identifying numbers : social security numbers , Internal Revenue Service (IRS) individual taxpayer identification numbers, employer identification numbers, and IRS adoption taxpayer identification numbers. social security numbers take the form 000-00-0000. IRS individual taxpayer identification numbers and IRS adoption taxpayer identification numbers also take the form 000-00-0000 but include a specific number or specific numbers designated by the IRS. Employer identification numbers take the form 00- 0000000. ...
26 CFR 301.6109-3T	IRS adoption taxpayer identification numbers (temporary).	... When an adoption becomes final, the adoptive parent must apply for a social security number ...
26 CFR 301.6305-1	Assessment and collection of certain liability.	... (2) ... The assessment of a certified amount shall ... provide ... (ii) The name, social security number , and ...
26 CFR 301.6334-4	Verified statements.	... The statement ... containing the ... (2) The name, relationship, and social security number of each individual whom the taxpayer can claim as a personal exemption ...
26 CFR 301.6402-5	Offset of past-due support against overpayment.	... (c) Notification of liability for past-due support ... shall contain ... (ii) The social security number of that taxpayer; ... (f) ... The Internal Revenue Service shall advise the Secretary of Health and Human Services or his delegate on a monthly basis of the names and social security numbers of the taxpayers from whom the amounts of past-due support were collected ...
26 CFR 301.7624-1	Reimbursement to State and local law enforcement agencies.	... For purposes of this paragraph (b), information includes, but is not limited to, tax years of violations, aliases, addresses, social security numbers and ...
26 CFR 301.7701-11	Social security number.	For purposes of this chapter, the term social security number means the taxpayer identifying number of an individual ...
26 CFR 31.3121(k)-4	Constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations.	... (ii) The waiver certificate shall be deemed to have been accompanied by a list containing the signature, address, and social security number (if any) of each employee ...
26 CFR 31.3402(p)-1	Voluntary withholding agreements.	... (ii) In the case of an employee who desires to enter into an [W-4] agreement under section 3402(p) with his employer ... a request for withholding ... shall contain – (a) The name, address, and social security number of the employee making the request, ...
26 CFR 31.3406(d)-4	Special rules for readily tradable instruments acquired through a broker.	... A broker who is required ... to notify the payor ... provided that the notice includes ... (i) The payee's name, address, and taxpayer identification number ... (An individual's taxpayer identification number is his or her social security number .) ...
26 CFR 31.3406(h)-1	Definitions.	... Taxpayer identification number means the identifying number assigned to a person under section 6109 (relating to identifying numbers, generally a nine- digit social security number for an individual ...
26 CFR 31.6053-1	Report of tips by employee to employer.	... The written statement furnished by the employee to the employer in respect of tips received by the employee shall be signed by the employee and should disclose: (i) The name, address, and social security number of the employee. ...
26 CFR 31.6053-3	Reporting by certain large food or beverage establishments with respect to tips.	... An employer shall file a separate information return ... shall contain ... (i) The employer's name, address, and employer identification number; ... (viii) The name and social security number of each employee ...
26 CFR 31.3402(q)-1	Extension of withholding to certain gambling winnings.	... (f) ... Every person making payment of winnings ... shall contain ... (i) The name, address, and employer identification number of the payer; (ii) The name, address, and social security account number of the winner; (v) Except with respect to winnings from a wager placed in a State ... two types of identification ... social security account number or voter registration number ...

Policy Manual

Code	Title	Purpose
26 CFR 31.6051-1	Statements for employees.	... Every employer ... required to deduct and withhold from an employee ... a statement on Form W-2 must be furnished to each employee ... shall show ... (a) The name, address, and identification number of the employer. (b) The name and address of the employee, and his social security account number if wages as defined ...
26 CFR 31.6051-3	Statements required in case of sick pay paid by third parties.	... Every payor of sick pay shall furnish to the employer of the payee of the sick pay a written statement ... must contain ... (i) The name and, if there is withholding from sick pay under section 3402(o) and the regulations thereunder, the social security account number of the payee, ...
26 CFR 31.3121(k)-3	Request for coverage of individual employed by exempt organization before August 1, 1956.	... applicable to requests ... before September 14, 1960 ... request shall ... (b) The name, address, and social security account number of the individual;
26 CFR 31.3121(k)-1	Waiver of exemption from taxes.	... (b) ... An organization filing a certificate ... containing ... social security account number , if any, ...
26 CFR 31.3402(o)-3	Extension of withholding to sick pay.	... Example 3. ... (iv) The social security number of the payee must be furnished to the payor. The agreement may provide that the employer will furnish this or the payee may furnish his social security number directly to the payor. ...
26 CFR 35.3405-1	Questions and answers relating to withholding on pensions, annuities, and certain other deferred income.	... e-3. Q. What information must the plan administrator provide to the payor in order to transfer his liability for withholding? ... the plan administrator is expected to provide the payor with the following minimum information: (1) The name, address, and social security number of the payee and ...

Code	Title	Purpose
26 CFR 35a.9999-1	Questions and answers concerning the due diligence requirement and the certification requirements in connection with backup withholding and other related issues.	The following questions and answers principally concern the due diligence exception to the penalty ... for failure to provide the payee's correct taxpayer identification number ... Q-23. Is a payor required to send mailings to a payee with respect to an account established under the Uniform Gift to Minors Act? A-23. Yes. The law requires that the social security number of the minor be provided to the payor with respect to accounts established under the Uniform Gift to Minors Act. If the minor does not have a social security number, the minor may obtain one by filing a Form SS-5 with a Social Security Administration Office. ... Q-26. If a payee does not provide a taxpayer identification number to the payor what action is a payor required to take? A-26. Starting January 1, 1984, the payor is required to commence backup withholding with respect to reportable payments to payees who have not provided a taxpayer identification number to the payor. If an individual payee does not have a social security number, he may obtain one by filing Form SS-5 with a Social Security Administration Office. ... Q-28. Is a payor required to impose backup withholding with respect to a reportable interest or dividend payment made on or after January 1, 1984, if the taxpayer identification number furnished by the payee does not contain the proper number of digits? A-28. Yes. A payor shall treat the payee as having failed to furnish a taxpayer identification number if the number provided does not contain the proper number of digits. The proper number of digits is nine for both the social security number and the employer identification number. ... Q-30. Is a payor required to impose backup withholding on a pension or annuity distribution made on or after January 1, 1984, if the payee has not provided his taxpayer identification number to the payor? A-30. If pension withholding ... if the payor has no social security number for the payee (or the social security number provided is obviously incorrect), the payor shall not impose backup withholding until the first payment made after June 30, 1984. By that date, the payee will have been able to obtain a social security number and provide it to the payor, in which case no amounts will be withheld. ... Appendix ... Recently, you purchased [identify security acquired]. Because of the existence of one or more of the following conditions, payments of interest, dividends, and other reportable amounts that are made to you will be subject to backup withholding of tax at a 20 percent rate: [specify the condition or conditions applicable] (1) You failed to provide a taxpayer identification number, or failed to provide such number under penalties of perjury, in connection with the purchase of the acquired security. (An individual's taxpayer identification number is his social security number.) ...
26 CFR 35a.9999-3	Questions and answers concerning backup withholding.	... The preceding sentence applies only with respect to a payor who receives such two or more notices under the same payor employer identification number (or social security number). ...
26 CFR 601.503	Requirements of power of attorney, signatures, fiduciaries and Commissioner's authority to substitute other requirements.	... A power of attorney must contain ... (2) identification number of the taxpayer (i.e., social security number and/or employer identification number);
26 CFR 7.6041-1	Return of information as to payments of winnings from bingo, keno, and slot machines.	... Each Form W-2G shall contain ... (2) Name, address, and social security number of the winner; (3) General description of two types of identification (e.g., "driver's license", "social security card", or "voter registration card") furnished to the maker of the payment for verification of the winner's name, address, and social security number ;

Table 24 Title 27 Alcohol, Tobacco Products and Firearms

Code	Title	Purpose
27 CFR 53.22	Employer identification number.	[Manufacturers Excise Taxes—firearms and Ammunition] ... (3) One-time or occasional filers. ... may use their social security number on any return, statement or other document submitted to ATF ...
27 CFR 178.124	Firearms transaction record.	... (2) In order to facilitate the transfer of a firearm and enable NICS to verify the identity of the person acquiring the firearm, ATF Form 4473 also requests certain optional information. This information includes the transferee's social security number and alien registration number (if applicable).

Table 25 Title 28 Judicial Administration

Code	Title	Purpose
28 CFR 16.53	Use and collection of social security numbers .	(a) That individuals may not be denied any right, benefit, or privilege as a result of refusing to provide their social security numbers, unless the collection is authorized either by a statute or by a regulation issued prior to 1975; and ...
28 CFR 513.31	Limitations.	(a) Social Security Numbers. As of September 27, 1975, Social Security Numbers may not be used in their entirety as a method of identification for any Bureau record system, unless such use is authorized by statute or by regulation adopted prior to January 1, 1975.
28 CFR 700.25	Use and collection of social security numbers .	(b) The Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required to furnish Social Security numbers without statutory or regulatory authorization and that individuals who are requested to provide Social Security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

Table 26 Title 29 Labor

Code	Title	Purpose
29 CFR 4.6	Labor standards clauses for Federal service contracts exceeding \$2,500.	... (g)(1) The contractor and each subcontractor ... shall make and maintain ... records containing ... (i) Name and address and social security number of each employee. ...
29 CFR 5.5	Contract provisions and related matters.	... (3) Payrolls and basic records. ... for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her ...
29 CFR 70a.10	Solicitation of social security numbers .	(a) Neither the Department nor its component units shall deny to any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose his social security number
29 CFR 71.2	Requests for access to records.	... (1) Any requester making a request in writing must state in his request his full name, and current address. ... may also include in his request his social security number .
29 CFR 71.12	Use and collection of social security numbers .	(a) Each component unit that requests an individual to disclose his social security account number shall provide the individual, in writing, with the following information: ... (1) The statute, regulation, Executive Order or other authority under which the number is solicited; ... (b) Neither the Department nor any of its component units shall, in the absence of specific federal statutory authority, deny to an individual any right, benefit or privilege provided by law solely because of such individual's refusal to disclose his social security account number

Code	Title	Purpose
29 CFR 102.169	Definitions.	... (c) Individual refers to a taxpayer identified by a social security number (SSN) .
29 CFR 102.170	Agency referral to IRS for tax referral effect; Agency responsibilities.	(a) As authorized and required by law, the Agency may refer past-due legally enforceable debts to the Internal Revenue Service ... Such referrals shall include the following information: ... (2) The name and taxpayer identification number (SSN or EIN) of the debtor who is responsible for the debt; ...
29 CFR 220.25	List of protected employees.	... each covered air carrier shall provide the Secretary with a list of all protected employees who were employed by it on October 24, 1978. ... (2) social security number (if available); and ...
29 CFR 220.27	Notice of rights.	... a covered air carrier which furloughs or terminates a protected employee during the eligibility period ... shall include ... (2) social security number (if available); ...
29 CFR 220.28	Air carrier actions to be reported to the Secretary.	(a) A covered air carrier shall report to the Secretary: (1) The names and social security numbers (if available) of all designated employees hired ...
29 CFR 500.80	Payroll records required.	(a) Each farm labor contractor, agricultural employer and agricultural association which employs any migrant or seasonal agricultural worker shall make and keep the following records with respect to each worker including the name, permanent address, and Social Security number: ...
29 CFR 552.110	Recordkeeping requirements.	(a) The general recordkeeping regulations are found in part 516 of this chapter and they require that every employer having covered domestic service employees shall keep records which show for each such employee: (1) Name in full, (2) social security number ...
29 CFR 1910.120	Hazardous waste operations and emergency response.	... The record required in paragraph (f)(8)(i) of this section shall include at least the following information: (A) The name and social security number of the employee; ...
29 CFR 1915.1001	Asbestos.	... This section regulates asbestos exposure in all shipyard employment work as defined in 29 CFR part 1915 ... [Medical surveillance] ... record shall include at least the following information: ... (F) Name, social security number , and exposure of the employees ...
29 CFR 1990.151	Model standard pursuant to section 6(b) of the Act.	... (q) Recordkeeping ... (D) Name, social security number and job classification of the employees monitored ...
29 CFR 2705.2	Definitions.	For the purpose of these regulations ... (c) The term record means any item ... that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number .

Table 27 Title 30 Mineral Resources

Code	Title	Purpose
30 CFR 210.10	Information collection.	... (16) MMS-4280 ... form is used to claim a reward for information leading to the recovery of payments ... from oil and gas leases on Federal land ... Claimants must provide name, address, social security number ...
30 CFR 250.1516	What information must a training organization submit to MMS?	... (e) A copy of the training certificate that includes the following: ... (2) Candidate's social security number ...
30 CFR 250.1517	What additional requirements must a training organization follow?	... (l) When each course ends ... The class roster must contain the ... (9) The trainee's social security number ...
30 CFR 778.13	Identification of interests.	... An application must contain the following information, except that the submission of a social security number is voluntary ...
30 CFR 90.300	Respirable dust control plan; filing requirements.	... (b) Each respirable dust control plan shall include ... (2) The name and social security number of the part 90 miner ...

Code	Title	Purpose
30 CFR 90.210	Respirable dust samples; report to operator.	... (a) The Secretary shall provide the operator with a report ... (7) The social security number of the part 90 miner. ...
30 CFR 250.1516	What information must a training organization submit to MMS?	... (e) A copy of the training certificate that includes ... (2) Candidate's social security number ...

Table 28 Title 31 Money and Finance

Code	Title	Purpose
31 CFR 1.32	Use and disclosure of social security numbers .	(a) In general. An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number
31 CFR 1.35	Information forms.	... (5) To insure that any form requesting disclosure of a social security number , ... clearly advises the individual ... (b) Form of request for notification and access or request for an accounting of disclosures. ... (iv) Such request shall contain ... if a particular system employs an individual's social security number ... the request must include the individual's social security number ... Procedures for [IRS] records. ... Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means ... must include the individual's social security number .
31 CFR 103.28	Identification required.	... a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any ...
31 CFR 103.29	Purchases of bank checks and drafts, cashier's checks, money orders and traveler's checks.	(a) No financial institution may issue or sell a ... check ... for \$3,000 or more ... unless it maintains records of the following ... (2) If the purchaser does not have a deposit account with the financial institution: (i)(A) The name and address of the purchaser; (B) The social security number of the purchaser, or if the purchaser is an alien and does not have a social security number , the alien identification number;
31 CFR 103.33	Records to be made and retained by financial institutions.	... the originator's bank shall obtain and retain a record of the name and address, the type of identification reviewed, the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. ...
31 CFR 103.34	Additional records to be made and retained by banks.	(a)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, or each deposit or share account opened with a bank after June 30, 1972, a bank shall ... secure and maintain a record of the taxpayer identification number ... (3) A taxpayer identification number required ... (i) Agencies and instrumentalities of Federal, state, local or foreign governments; (ii) judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court; (iii) aliens ... (4) The rules and regulations issued by the Internal Revenue Service under section 6109 of the Internal Revenue Code of 1954 shall determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.
31 CFR 103.35	Additional records to be made and retained by brokers or dealers in securities.	(a)(1) With respect to each brokerage account opened with a broker or dealer in securities ... In the event that a broker or dealer has been unable to secure the identification [social security number] required within the 30-day period specified, it shall nevertheless not be deemed to be in violation of this section if: (i) It has made a reasonable effort to secure such identification ...

Code	Title	Purpose
31 CFR 103.36	Additional records to be made and retained by casinos.	(a) With respect to each deposit of funds, account opened or line of credit ... a casino shall ... secure and maintain a record of the name, permanent address, and social security number of the person involved. ... In the event that a casino has been unable to secure the required social security number , it shall not be deemed to be in violation of this section if (1) it has made a reasonable effort to secure such number and (2) it maintains a list containing the names and permanent addresses of those persons ... (4) A record of each extension of credit in excess of \$2,500, the terms and conditions of such extension of credit, ... The record shall include the customer's name, permanent address, social security number ... If the customer or person for whom the credit extended is a non-resident alien, his passport number or description of some other government document used to verify his identity shall be obtained and recorded;
31 CFR 103.37	Additional records to be made and retained by currency dealers or exchangers.	... each currency dealer or exchanger shall secure and maintain a record of the taxpayer identification number of each person ... nevertheless not be deemed to be in violation of this section if: (i) It has made a reasonable effort to secure such identification, and (ii) It maintains a list containing the names, addresses, ...
31 CFR 103.38	Nature of records and retention period.	... (c) The rules and regulations issued by the Internal Revenue Service under 26 U.S.C. 6109 determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.
31 CFR 103.54	Special rules for casinos.	... Each casino shall develop and implement ... (v) Procedures for using all available information to determine: (A) When required by this part, the name, address, social security number , and other information, and verification of the same, of a person;
31 CFR 215.10	Change of legal residence by members of the Armed Forces.	... (b) Heads of agencies shall notify the State of prior legal residence of the member of the Armed Forces involved on a monthly basis concerning the change of the member's legal residence. The notification shall include the name, social security number , current mailing address ...
31 CFR 285.1	Collection of past-due support by administrative offset.	... FMS for collection by administrative offset. A match will occur when the taxpayer identifying number and name control of a payment record are the same as the taxpayer identifying number and name control of a debt record. The taxpayer identifying number for an individual is the individual's social security number .
31 CFR 285.7	Salary offset.	... Debt information includes the amount and type of debt and the debtor's name, address, and taxpayer identifying number.
31 CFR 285.11	Administrative wage garnishment.	... This section provides procedures for Federal agencies to collect money from a debtor's disposable pay ... (2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury ... The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and social security number , as well as ...
31 CFR 315.2	Definitions.	... (o) Taxpayer identifying number means a social security account number or an employer identification number.
31 CFR 315.5	General rules.	... Savings bonds are issued only in registered form. ... Registrations ... must ... include the taxpayer identifying number of the owner ...
31 CFR 315.39	Surrender for payment.	... bonds of Series A to E, inclusive ... the presenter must record his or her social security number on the face of the security ...
31 CFR 316.2	Description of bonds.	... Series E bonds ... (1) Inscribed on the face of each bond the name, social security number and address of the owner ...
31 CFR 321.1	Definitions.	... (q) Taxpayer identifying number means a social security account number or an employer identification number.
31 CFR 332.2	Description of bonds.	 Series H bonds bear ... (1) The name, social security account number and address of the owner ...

Code	Title	Purpose
31 CFR 332.6	Purchase of bonds.	... (b) Application for purchase and remittance. (1) The applicant for purchase of Series H Bonds furnished. ... (ii) The appropriate social security or employer identification number; ...
31 CFR 353.2	Definitions.	... (k) Taxpayer identifying number means a social security account number or an employer identification number.
31 CFR 353.5	General rules.	... Registrations ... must include the taxpayer identifying number of the owner ...
31 CFR 501.806	Procedures for unblocking funds believed to have been blocked due to mistaken identity.	... inclusion of a social security number is voluntary but will facilitate resolution of the request.

Table 29 Title 32 National Defense

Code	Title	Purpose
32 CFR 63.6	Procedures.	(a) Eligibility of former spouse.... to receive direct payment from the retired pay... (b) ... A former spouse shall deliver ... a signed statement that includes: ... should give the member's full name, social security number , and Uniformed Service. (v) The full name, address, and social security number of the former spouse.
32 CFR 113.6	Procedures.	(a) The following procedures apply to the processing of debt complaints against members of the Military Services. ... (iv) Involuntary allotment applications must contain ... (A) The full name, social security number , and ...
32 CFR 114.5	Procedures.	... (f) RCCPDS data validity shall be ensured ... The following shall be critical data ... social security number ...
32 CFR 114.6	Information requirements.	... The reporting requirements for this part are assigned the following Report Control Symbols (RCS): ... 3. social security number (SSN) ...
32 CFR 220.9	Rights and obligations of beneficiaries.	(d) Mandatory disclosure of Social Security account numbers. Pursuant to 10 U.S.C. 1095(k)(2), every covered beneficiary eligible for care in facilities of the Uniformed Services is, as a condition of eligibility, required to disclose to authorized personnel his or her Social Security account number.
32 CFR 231.5	Responsibilities.	... Appendix A ... 2. ...This includes credit information and proper identification, which may include social security number , as a precondition for the cashing of checks. 3. Financial institutions may incorporate the following conditions of disclosure ...: I hereby authorize the Department of Defense and its various Components to verify my social security number or other identifier and ...
32 CFR 270.19	Reports to Congress.	... Social security number : Providing a social security number is voluntary. If one is not provided, the application for payment will still be processed.
32 CFR 298.4	Procedures for release of DIS records.	... (2) The request must contain the first name, middle name or initial, surname, date and place of birth, social security number , and,

Code	Title	Purpose
32 CFR 310.20	General considerations.	(b) Collecting social security numbers (SSNs) . (1) It is unlawful for any federal, state, or local governmental agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN . However, if a federal statute requires that the SSN ... (4) Executive Order 9397, "Numbering System For Federal Accounts Relating to Individual Persons," November 30, 1943, authorizes solicitation and use of SSNs as numerical identifier for individuals in most Federal records systems. However, it does not provide mandatory authority for soliciting SSNs . (5) Upon entrance into military service or civilian employment with the Department of Defense, individuals are asked to provide their SSNs . The SSN becomes the service or employment number for the individual and is used to establish personnel, financial, medical, and other official records. Provide the notification in paragraph (b)(2) of this section to the individual when originally soliciting his or her SSN . After an individual has provided his or her SSN for the purpose of establishing a record, the notification in paragraph (b)(2) is not required ...
32 CFR 310.41	Nonconsensual disclosures.	... Records pertaining to an individual may be disclosed without the consent ... may be disclosed to a consumer reporting agency: (i) Name, address, taxpayer identification number (SSN), and ...
32 CFR 310.42	Disclosures to commercial enterprises.	... (2) Commercial enterprises may present a signed consent statement ... I hereby authorize the Department of Defense to verify my social security number or other identifying information and ...
32 CFR 311.5	Procedures.	... (6) Individuals shall not be denied access to their records for refusing to disclose their Social Security Numbers (SSNs), unless ...
32 CFR 316.6	Procedures and responsibilities.	... (ii) The System Manager may release records to the individual's representative ... the System Manager may require whatever identifying information is needed to locate the record; i.e., name, social security number , date of birth. ... An individual will not be denied access to his record for refusing to disclose his social security number unless disclosure is required by statute or by regulation adopted before 1 January 1975.
32 CFR 317.20	General considerations.	... (b) Soliciting the social security number . (1) It is unlawful for any Federal, State, or local government agency to deny an individual a right, benefit, or privilege provided by law because the individual refuses to provide the social security number (SSN) . However, this prohibition does not apply ...
32 CFR 317.61	Non-consensual disclosures.	... (i) Disclosures to consumer reporting agencies. (1) Certain information may be disclosed to consumer reporting agencies as defined by 31 U.S.C. 952d. ... (i) Name, address, taxpayer identification number (SSN), and other information necessary to establish the identity of the individual. ...
32 CFR 317.62	Disclosures to commercial enterprises.	... (2) Commercial enterprises may present a concise statement signed by the individual indicating ...: I hereby authorize the Defense Contract Audit Agency to verify my social security number or ...
32 CFR 317.72	System of records notices.	... (3) If the system has not been exempted, the notice must provide sufficient information to enable an individual to request notification of whether a record in the system pertains to him or her. Merely referring to the agency's procedural rules is not sufficient. ... (ii) Any specific information the individual must provide in order for the agency to respond to the request (e.g., name, SSN , date of birth, etc.); and ...
32 CFR 317.73	New and altered record systems.	... (5) A change in the manner in which records are organized or in the method by which records are retrieved requires changing the "Retrievability" caption in the system notice. ... (ii) Retrieving by SSNs records that previously were retrieved only by names would be an alteration if the present notice failed to indicate retrieval by SSNs .
32 CFR 318.4	Procedures for requests pertaining to individual records in a record system.	(a) An individual seeking notification of whether a system of records, maintained by the Defense Threat Reduction Agency, contains a record pertaining ... will provide in writing his or her full name, address, social security number , and a telephone number ...

Code	Title	Purpose
32 CFR 322.3	Procedures for requests concerning individual records in a system of records.	... Such request ... shall contain the full name, present address, date of birth, social security number and dates of affiliation or contact with ...
32 CFR 323.5	Procedures.	... (5) It is unlawful for any Federal, state, or local government agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her social security number (SSN)
32 CFR 505.2	Individual rights of access and amendment.	... Nor can an individual be denied access solely because he/she refused to provide his/her social security number unless the social security number was required for access by statute or regulation adopted prior to January 1, 1975 ...
32 CFR 505.3	Disclosure of personal information to other agencies and third parties.	... (12) To a consumer reporting agency ... the name, address, SSN , other information identifying ...
32 CFR 505.4	Record-keeping requirements under the Privacy Act.	... (c) social security number (SSN) . Executive Order 9397 authorizes the Department of the Army to use the SSN as a system of identifying Army members and employees. Once a military member or civilian employee of the Department of the Army has disclosed his/her SSN for purposes of establishing personnel, financial, or medical records upon entry into Army service or employment, the SSN becomes his/her identification number. No other use of this number is authorized. Therefore, whether the SSN alone is requested from the individual, or the SSN together with other personal information, the Privacy Act Statement must make clear that disclosure of the number is voluntary. If the individual refuses to disclose his/her SSN , the Army activity must be prepared to identify the individual by alternate means. ...
32 CFR 513.1	General.	... (i) Locator service. ... All requests must include the soldier's full name, rank, and social security number (SSN) . They should include the date and place of birth if the SSN is not known....
32 CFR 513.4	Conditions creditors must meet before getting help in debt processing.	... (5) Creditors who have followed these terms may contact the soldier's commander ... must include – (i) The soldier's full name, rank, and SSN . (ii) Date and place of birth, if SSN is not known. ...
32 CFR 516.23	Litigation reports.	... (e) Potential witness information. List each person having information relevant to the case and provide an office address and telephone number. If there is no objection, provide the individual's social security account number , home address, and telephone number. ...
32 CFR 527.17	Heads of check-cashing facilities.	... heads of check-cashing facilities will-- ... (c) Prominently display the sign cited below at each check-cashing point: Notice to check cashers: disclosure of social security number (SSN) and Other personal information is solicited by authority of section 3012 and 8012, title 10, united states code, and is mandatory if you wish to cash a check.
32 CFR 527.22	Sponsor responsibility.	(a) Sponsors may be held liable for acts of family members when a family member uses their dependent ID card and their sponsor's SSN for check cashing.
32 CFR 527.32	Installation check control officer.	(a) On receipt of notice from the check-cashing facility that a ... file will contain, as a minimum,... (1) Name and SSN .
32 CFR 575.1	Military Academy.	(a) Organization and administration ... (1) Presidential: Children of career military ... Applications should include the name, grade, social security number/service number ... (2) Children of Deceased and Disabled Veterans: ... application should ... social security number/ service number ...

Code	Title	Purpose
32 CFR 575.3	Appointments; sources of nominations.	Admission to the Military Academy... (1) Presidential: Children of career military personnel in the Armed Forces ... Applications should include the name, grade, social security number /service number, and branch of service of the parent as a member of such regular component, and the full name, address, and date of birth of the applicant (complete military address and social security number , if in the Armed Forces). ... (2) Children of Deceased and Disabled Veterans: ... and the name, grade, social security number /service number, and last organization of the veteran parent, ...
32 CFR 584.8	Garnishment.	... (b) ... The USAFAC will process most garnishment orders. ... the name and social security number (SSN) of the soldier must be included. ...
32 CFR 584.9	Involuntary allotments.	... (ii) A court or agent of the court that has authority to issue an order against the soldier for the support and maintenance of a child. (3) Such notice must give the soldier's full name and SSN
32 CFR 630.10	Special category absentees.	... (b) Queries the NCIC missing person, interstate identification, and unidentified person files for a possible match using the absentee's identifying information (social security number , ...
32 CFR 630.15	Verification of deserter status.	(a) When a person claims to be a deserter ... receiving military authority ... and provide as much of the following data as possible to the provost marshal: (1) Name. (2) social security number
32 CFR 630.19	Deserters and defectors in foreign countries.	Notification should be completed in advance for coordination of operational military police actions. The notice includes the-- (1) Name, grade, and social security number of the absentee. ...
32 CFR 630.24	Action on return to military control.	(a) The military authority first receiving or apprehending the absentee or deserter ... (1) Name, grade, and social security number of the absentee. ...
32 CFR 630.29	Documentation.	(a) Payment of reward or reimbursement for expenses ... supporting documents: (1) Name, social security number , and last duty station ...
32 CFR 630.32	Responsibilities.	... Sample Military Detainer ... I, (name of civilian representative) an official agent representing (name and address of civilian jurisdiction), accept custody and control of (grade, name, social security number), a U.S. Soldier, ...
32 CFR 701.108	Collecting information about individuals.	... (c) Soliciting the social security number (SSN) . (1) It is unlawful for any Federal, State, or local government agency to deny an individual a right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN however, it does not make it mandatory for individuals to provide their SSNs .
32 CFR 719.144	Application for relief under 10 U.S.C. 869, in cases which have been finally reviewed.	... (d) Contents of applications. All applications for relief shall contain: (1) Full name of the applicant; (2) social security number and branch of service, if any; ...
32 CFR 719.155	Application under 10 U.S.C. 874(b) for the substitution of an administrative form of discharge for a punitive discharge or dismissal.	... All applications shall contain: (1) Full name of the applicant; (2) social security number , service number (if different), and ...
32 CFR 725.7	Contents of a proper request or demand.	... including the current military service, status (active, separated, retired), social security number , if known, ...
32 CFR 727.8	Confidential and privileged character of service provided.	... no information which identifies an individual legal assistance client by name or any other particular, such as social security number , shall be extracted from the case files ...
32 CFR 728.21	Navy and Marine Corps reservists.	... (f) ... The letter of authorization will include name, grade or rate, social security number , and organization of the reservist; ...
32 CFR 728.25	Army and Air Force National Guard personnel.	(a) Medical and dental care. Upon presentation of a letter of authorization, ... will include name, social security number , grade, and ...

Code	Title	Purpose
32 CFR 728.4	Policies.	... (i) Initial. Include in the initial report: (A) Officer's name, grade, social security number , and designator. ...
32 CFR 728.77	Secretarial designees.	... (5) Abused dependents must include: (i) Full name, social security number , grade or rate, branch or ... (ii) Full names, social security numbers (if assigned), and relationship to the former member of any dependent ...
32 CFR 732.18	Notification of illness or injury.	... (1) If able, members must notify or cause their parent command, the nearest naval activity ... (i) Name, grade or rate, and social security number of patient. ...
32 CFR 750.3	Investigations: The report.	... (2) A Privacy Act statement for each person who was asked to furnish personal information shall be provided. Social Security numbers of military personnel and civilian employees of the U.S. Government should be included in the report but should be obtained from available records, not from the individual. ...
32 CFR 806b.8	When to give Privacy Act statements (PAS).	... (2) Whenever you ask someone for his or her social security number (SSN)
32 CFR 806b.9	Requesting the Social Security Number (SSN) .	(a) Do not deny people a legal right, benefit, or privilege for refusing to give their SSNs unless ... (c) Executive Order 9397, November 22, 1943, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN , but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records. ...
32 CFR 818.15	Garnishment.	... (b) Process directed for garnishment must ... also show the member's social security number and whether the member is active duty, ...
32 CFR 818.16	Statutory allotments.	... (2) The service member's full name and social security number
32 CFR 818.20	Garnishment of pay of Air Force members and employees only for child support or alimony obligations.	... The process must also show the social security number and whether the member is retired, ...
32 CFR 818.21	Statutory allotments.	... (2) The service member's full name and social security number
32 CFR 865.3	Application procedures.	... the applicant is a member or former member of the Air Force, since the request is personal to the applicant and relates to his or her military records. ... (2) The member's social security number or Air Force service number. ...
32 CFR 884.12	Procedures for return of an Air Force member to the United States.	...(1) Fully identify the member sought. Requesting agencies shall provide the members' name, grade, social security number (SSN) , and unit ...
32 CFR 884.7	Delivery to Federal authorities.	... A warrant for the arrest of (name, grade, and social security number), hereinafter referred to as the "member," who is charged with ...
32 CFR 884.8	Requests by authorities of the state in which the member requested is located.	... in the following form: In consideration of the delivery at (location) of (name, grade, and social security number), hereinafter referred to as the "member," ...
32 CFR 1290.9	Forms and reports.	... Appendix A - Preparation Guide for DD Form 1805, Violation Notice ... All violations will require: Last four digits of the social security number of the Issuing guard/police officer ...
32 CFR 1615.4	Duty of persons required to register.	A person required by selective service law to register has the duty. (a) To complete the Registration Card prescribed by the Director of Selective Service and to record thereon his name, date of birth, sex, social security account number (SSAN) , current mailing address, permanent residence, telephone number, date signed, and signature; and ...
32 CFR 1615.6	Selective service number.	Every registrant shall be given a selective service number. The social security account number will not be used for this purpose.

Table 30 Title 33 Navigation and Navigable Waters

Code	Title	Purpose
33 CFR 207.800	Collection of navigation statistics.	... (F) Harbor Maintenance Tax information ... (1) The name of the shipper ... and the shipper's ... social security number ...
33 CFR 165.504	Newport News Shipbuilding and Dry Dock Company Shipyard, James River, Newport News, Va.	... (A) The owner of the vessel has previously provided the Captain of the Port, Hampton Roads, Virginia, information about the vessel, including: ... (4) The name, social security number ...
33 CFR 187.101	Information to identify a vessel owner.	... A participating State must collect the following information regarding the ownership of vessels numbered or titled under the laws of that State: ... (d) If the owner is an individual, the owner's social security number , or, if that number is not available ...
33 CFR 54.05	Form and contents of notice.	(a) The notice required to institute an allotment ... Provide the full name, social security number ...

Table 31 Title 34 Education

Code	Title	Purpose
34 CFR 30.23	How must a debtor request an opportunity to inspect and copy records relating to a debt?	(a) If a debtor wants to inspect and copy ... including the debtor's social security number and ...
34 CFR 30.24	What opportunity does the debtor receive to obtain a review of the existence or amount of a debt?	(a) If a debtor wants a review ... request ... including the debtor's social security number ...
34 CFR 30.27	When does the Secretary enter into a repayment agreement rather than offset?	(a) If a debtor wants an opportunity to enter into a written agreement ... including the debtor's social security number ...
34 CFR 303.401	Definitions of consent, native language, and personally identifiable information.	... (c) Personally identifiable means that information includes – ... such as the child's or parent's social security number ; or ...
34 CFR 31.4	Request to inspect and copy documents relating to a debt.	(a) The Secretary makes available for inspection ... including the employee's social security number ...
34 CFR 31.5	Request for hearing on the debt or the proposed offset.	... The Secretary provides a hearing before ... A request for a hearing must contain – ... including the employee's social security number ...
34 CFR 370.48	What are the special requirements pertaining to the protection, use, and release of personal information?	... shall disclose to the Secretary ... social security number ...
34 CFR 381.31	What are the requirements pertaining to the protection, use, and release of personal information?	... if the Secretary so requests, the identity of ... social security number ...
34 CFR 668 Appendix C to Part 668 – Appendix I	Standards for Audit of Governmental Organizations, Programs, Activities, and Functions (GAO) Qualifications of Independent Auditors Engaged by Governmental Organizations	... (2) Explain the borrower's rights and responsibilities in the Stafford Loan and SLS programs including – (i) The borrower's responsibility to inform his or her lender immediately of any change of name, address, telephone number, or social security number ; ...
34 CFR 668.17	Default reduction and prevention measures.	... (B) Within 15 working days of receiving the notification from an institution subject to loss of participation in the FFEL or Direct Loan programs ... (1) The guaranty agency shall identify in social security number order all loans ...

Code	Title	Purpose
34 CFR 668.19	Financial aid transcript.	... (c) An institution must disclose on a financial aid transcript for a student – (1) The student's name and social security number ...
34 CFR 668.32	Student eligibility – general.	A student is eligible to receive title IV, HEA program assistance if the student– ... (h) Files a Statement of Educational Purpose in accordance with the instructions of the Secretary, or in the case of a loan made under the FFEL Program, with the lender; (i) Has a correct social security number as determined under Sec. 668.36 ...
34 CFR 668.36	Social Security Number.	... the Secretary attempts to confirm the social security number a student provides on the Free Application for Federal Student Aid (FAFSA) under a data match with the Social Security Administration.
34 CFR 668.59	Consequences of a change in application information.	(a) For the Federal Pell Grant Program – ... (e) If the applicant has received funds based on information which may be incorrect and the institution has made a reasonable effort to resolve the alleged discrepancy, but cannot do so, the institution shall forward the applicant's name, social security number , and other relevant information to the Secretary.
34 CFR 674.41	Due diligence – general requirements.	(a) General. Each institution shall exercise due diligence ... shall ensure that information available in its offices ... The current name, address, telephone number and social security number of the borrower.
34 CFR 674.42	Contact with the borrower.	... An institution shall conduct an exit interview ... shall explain the borrower's rights and responsibilities under the loan, including the following: ... any change of name, address, telephone number, or social security number
34 CFR 674.48	Use of contractors to perform billing and collection or other program activities.	(c) If an institution uses a billing service ... any changes to the borrower's social security number ; and ...
34 CFR 674.50	Assignment of defaulted loans to the United States.	... (e) The Secretary does not accept assignment of a loan if – (1) The institution has not provided the social security number of the borrower; ...
34 CFR 682.201	Eligible borrowers.	... (b) Parent borrower. (1) A parent borrower, is eligible to receive a PLUS Program loan, other than a loan made under Sec. 682.209(e), if the parent – ... (ii) Provides his or her and the student's social security number ; ...
34 CFR 682.207	Due diligence in disbursing a loan.	... A disbursement made by electronic funds transfer must be accompanied by a list of the names, social security numbers, and ...
34 CFR 682.401	Basic program agreement.	... (23) Guaranty agency transfer of information. ... shall provide – (A) The name and social security number of the student; and ...
34 CFR 682.604	Processing the borrower's loan proceeds and counseling borrowers.	... (2) In conducting the exit counseling, the school shall – ... (vi) Require the borrower to provide corrections to the institution's records concerning name, address, social security number ...
34 CFR 685.200	Borrower eligibility.	... (b) Parent borrower ... is eligible to receive a Direct PLUS Loan if the parent ... provides his or her and the student's social security number
34 CFR 685.304	Counseling borrowers.	... (b) Exit counseling. (1) A school shall conduct in-person exit counseling with each Direct Subsidized or Direct Unsubsidized Loan borrower ... (2) In conducting the exit counseling, the school shall – ... (vii) Require the borrower to provide ... social security number ...
34 CFR 690.79	Recovery of overpayments.	... Secretary recover the overpayment by – (2) Providing the Secretary with the student's name, social security number , amount of overpayment ...
34 CFR 99.3	What definitions apply to these regulations?	... Personally identifiable information includes, but is not limited to: ... (d) A personal identifier, such as the student's social security number or student number; ...

Table 32 Title 36 Parks, Forests, and Public Property

Code	Title	Purpose
36 CFR 1121.2	Definitions.	... (c) The term record means any item ... including ... such as social security number
36 CFR 1202.10	Collection and use.	... (c) Solicitation of social security number . (1) Before a NARA employee or NARA contractor requires an individual to disclose his or her social security number , NARA will ensure that either: (i) The disclosure is required by Federal law; or (ii) The disclosure was required under a Federal law or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. ...
36 CFR 1228.154	Transfers to the National Personnel Records Center (NPRC).	General Records ... The OPF and the EMF must be labeled in the upper right corner ... and social security number only. ... Each document must contain the former employee's current name and name under which formerly employed, if different; date of birth; social security number ...

Table 33 Title 38 Pensions, Bonuses, and Veterans' Relief

Code	Title	Purpose
38 CFR 1.460	Definitions.	... The term "patient identifying information" means the name, address, social security number , ...
38 CFR 1.575	social security numbers in veterans' benefits matters.	(a) Except as provided in paragraph (b) ... no one will be denied any right, benefit, or privilege provided by law because of refusal to disclose ... a social security number . (b) VA shall require mandatory disclosure of a claimant's or beneficiary's social security number (including the social security number of a dependent of a claimant or beneficiary) on necessary forms as prescribed by the Secretary as a condition precedent to receipt or continuation of receipt of compensation or pension payable under the provisions of chapters 11, 13 and 15 of title 38, United States Code, provided, however, that a claimant shall not be required to furnish VA with a social security number for any person to whom a social security number has not been assigned.
38 CFR 1.922	Disclosure of debt information to consumer reporting agencies (CRA).	(a) The Department of Veterans Affairs may disclose ... social security number , and date of birth, to consumer reporting agencies
38 CFR 14.640	Purpose.	... VA will grant authorized claimants' representatives read-only ... (c)(1) Access will be authorized ... (i) Beneficiary identification data such as name, social security number ...
38 CFR 17.903	Payment.	... (3) Claims for health care provided ... shall contain, as appropriate, ... (D) social security number
38 CFR 17.902	Preauthorization.	(a) Preauthorization ... The application shall contain the following: ... (2) Child's social security number , ... (4) Veteran's social security number ...
38 CFR 21.8014	Application.	(a) Filing an application. To participate in a vocational training program, the child ... (2) Provide the child's full name ... and the Vietnam veteran's full name and social security number or VA claim number, if any; and ...
38 CFR 3.204	Evidence of dependents and age.	... VA will accept, for the purpose of determining entitlement to benefits ... a claimant must provide the social security number of any dependent ...
38 CFR 3.216	Mandatory disclosure of social security number .	... However, no one shall be required to furnish a social security number for any person to whom none has been assigned. ...

Code	Title	Purpose
38 CFR 3.256	Eligibility reporting requirements.	... (3) The Secretary shall require an eligibility verification report from individuals receiving parents' dependency and indemnity compensation under the following circumstances: (i) If the Social Security Administration has not verified the beneficiary's social security number and, if the beneficiary is married, his or her spouse's social security number .
38 CFR 3.277	Eligibility reporting requirements.	(a) Evidence of entitlement. ... (2) The Secretary shall require an eligibility verification report under the following circumstances: (i) If the Social Security Administration has not verified the beneficiary's social security number and, if the beneficiary is married, his or her spouse's social security number ; ...
38 CFR 3.500	General.	... (2) Subversive activities. ... (w) Failure to furnish social security number . Last day of the month during which the 60 day period following the date of VA request expires. ...
38 CFR 36.4317	Notice of intention to foreclose.	... (c) The notice required ... A good faith effort will include, but is not limited to: ... (2) A search of the holder's automated and physical loan record systems to identify sufficient information (e.g., social security number) to perform a routine trace inquiry through a major consumer credit bureau; ...
38 CFR 36.4280	Reporting of defaults.	The holder of any guaranteed loan shall give notice ... A good faith effort will include: ... (2) A search of the holder's automated and physical loan record systems to identify sufficient information (e.g., social security number) to perform a routine trace inquiry through a major consumer credit bureau; ...
38 CFR 46.3	Malpractice payment reporting.	(a) VA will file a report with the National Practitioner Data Bank ... (1) With respect to the physician, dentist or other licensed health care practitioner for whose benefit the payment is made – (iv) social security number , if known, and if obtained in accordance with section 7 of the Privacy Act of 1974 ...
38 CFR 46.4	Clinical privileges actions reporting.	(a) VA will file an original and one copy of an adverse action report with the State Licensing Board in the State ... (b) The report ... will provide the following information – ... (iv) social security number , if known (and if obtained in accordance with section 7 of the Privacy Act of 1974), ...

Table 34 Title 39 Postal Service

Code	Title	Purpose
39 CFR 262.5	Systems (Privacy).	(a) Privacy Act system of records. A Postal Service system containing information about individuals, including mailing lists, from which information is retrieved by the name of an individual or by some identifying number or symbol assigned to the individual, such as a social security account number .
39 CFR 266.4	Collection and disclosure of information about individuals.	... (4) The Postal Service will not require individuals to furnish their social security account number or deny a right, privilege or benefit because of an individual's refusal to furnish the number unless it must be provided by Federal law. ...
39 CFR 491.3	Sufficient legal form.	No document purporting to garnish employee wages shall be deemed sufficient unless it ... contains the name of the garnished party, with his or her social security number ...
39 CFR 491.4	Identification of employees.	... Garnishment of an employee whose name and social security number are similar to but not identical with the name and social security number on the garnishment will not be processed. ...
39 CFR 966.4	Petition for a hearing and supplement to petition.	(a) A former [postal] employee who is alleged to be responsible for a debt to the Postal Service may petition ... (c) The petition must include the following: ... (2) The former employee's name and social security number ; ...

Table 35 Title 40 Protection of Environment

Code	Title	Purpose
40 CFR 82.166	Reporting and recordkeeping requirements.	... Acceptable forms of identification include but are not limited to drivers' licenses numbers, social security numbers, and passport numbers. ...
40 CFR 763.121	Regulatory requirements.	... (2) Exposure measurements. (i)(A) The employer shall keep an accurate record of all measurements ... This record shall include at least the following information: ... (F) Name, social security number , and exposure of the employees ... (3) Medical surveillance. (i) The employer shall establish and maintain an accurate record for each employee subject to medical ... shall include ... (A) The name and social security number of the employee. ...
40 CFR 1516.2	Definitions.	... (c) The term record means any item ... such as a social security number ; ...

Table 36 Title 41 Public Contracts and Property Management

Code	Title	Purpose
41 CFR 105-64.101-1	Collection and use.	... (c) Soliciting a social security number . Before requesting a person to disclose his or her social security number , ensure either: (1) The disclosure is required by Federal statute, or; (2) Disclosure is required under a statute or regulation adopted before January 1, 1975, to verify the person's identity, and that it was part of a system of records in existence before January 1, 1975. ...
41 CFR 301-71.302	What data must we capture in our travel advance accounting system?	You must capture the following data: (a) The name and social security number of each employee who has an advance; ...
41 CFR 50-204.33	Disclosure to former employee of individual employee's record.	(a) At the request of a former employee an employer shall furnish to the employee a report of the employee's exposure to radiation ... (b) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.
41 CFR 50-204.36	Radiation standards for mining.	... (d)(1) At the request of an employee (or former employee) a report of the employee's exposure to radiation ... (2) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.
41 CFR 60-4.3	Equal opportunity clauses.	... c. "employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941. ... 14. The Contractor shall designate a responsible official to monitor all employment related activity ... keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number ...
41 CFR 60-3.15	Documentation of impact and validity evidence.	... but should not include names and social security numbers. Records should be maintained which show the ratings given to each sample member by each rater. ...

Table 37 Title 42 Public Health

Code	Title	Purpose
42 CFR 2.11	Definitions.	... Patient identifying information means the name, address, social security number , fingerprints ...
42 CFR 21.75	Procedures.	(a) Service of notice. (1) An authorized person shall serve on the designated official of the Department a signed notice including: (i) Full name of the officer; (ii) social security number of the officer; ...
42 CFR 37.60	Submitting required chest roentgenograms and miner identification documents.	(a) Each chest roentgenogram required to be made ... (e) If a miner refuses to participate in all phases of the examination prescribed in this subpart, no report need be made. If a miner refuses to participate in any phase of the examination prescribed in this subpart, all the forms shall be submitted with his or her name and social security account number on each. If any of the forms cannot be completed because of the miner's refusal, it shall be marked "Miner Refuses," and shall be submitted. No submission shall be made, however, without a completed miner identification document containing the miner's name, address, social security number and place of employment.
42 CFR 412.105	Special treatment: Hospitals that incur indirect costs for graduate medical education programs.	... (2) To include a resident in the full-time equivalent count ... (ii) The name and social security number of each resident. ...
42 CFR 413.86	Direct graduate medical education payments.	... (i) To include a resident in the FTE count ... (1) The name and social security number of the resident. ...
42 CFR 433.37	Reporting provider payments to Internal Revenue Service.	(a) Basis and purpose. This section, based on section 1902(a)(4) of the Act, prescribes requirements concerning – ... (b) Identification of providers. A State plan must provide for the identification of providers by – (1) social security number if – ...
42 CFR 433.138	Identifying liable third parties.	... Health insurance information may include ... the social security number (SSN) of the policy holder ...
42 CFR 435.406	Citizenship and alienage.	... (c) The agency must provide payment for the services described in Sec. 440.255(c) of this chapter to residents of the State who otherwise meet the eligibility requirements of the State plan (except for ... the presentation of a social security number) ...
42 CFR 435.910	Use of social security number .	(a) The agency must require, as a condition of eligibility, that each individual (including children) requesting Medicaid services furnish each of his or her social security numbers (SSNs) . (b) The agency must advise the applicant of – ... (2) The statute or other authority under which the agency is requesting the applicant's SSN ; and ... (e) If an applicant ... has not been issued a SSN the agency must – (1) Assist the applicant in completing an application for an SSN ; ...
42 CFR 435.920	Verification of SSNs .	(a) In redetermining eligibility, the agency must review case records to determine whether they contain the recipient's SSN or, in the case of families, each family member's SSN .
42 CFR 436.406	Citizenship and alienage.	... (c) The agency must provide payment for the services ... to residents of the State who otherwise meet the eligibility requirements of the State plan (except for ... the presentation of a social security number) ...
42 CFR 486.304	General requirements.	(a) Designation – a condition for payment. Payment may be made under the Medicare and Medicaid programs for organ procurement ... Donor records must include ... information identifying the donor (for example, name, address, date of birth, social security number) ...
42 CFR 57.206	Eligibility and selection of health professions student loan applicants.	... for consideration for a health professions student loan ... (i) Applicant's name and social security number ; ...
42 CFR 57.306	Eligibility and selection of nursing student loan applicants.	... for consideration for a nursing student loan ... (i) Applicant's name and social security number ; ...
42 CFR 60.51	The student loan application.	... (b) Verify ... social security number .

Code	Title	Purpose
42 CFR 60.53	Notification to lender or holder of change in enrollment status.	Each school must notify the holder of a HEAL loan ... [change in] the student's social security number ...
42 CFR 60.56	Records.	(a) In addition ... each school must maintain an accurate ... record ... contain ... if obtained by the school, to verify citizenship status and social security number ...

Table 38 Title 43 Public Lands: Interior

Code	Title	Purpose
43 CFR 3809.1-9	Financial guarantees.	... (d) The certification submitted by the operator, mining claimant, or its authorized agent, for any operations conducted under a notice, shall include: (1) The name, home address, office and home telephone numbers, and social security number or employer identification number of the operator, mining claimant, or authorized agent; ...

Table 39 Title 44 Emergency Management and Assistance

Code	Title	Purpose
44 CFR 11.53	Securing debtor addresses from the Department of Treasury.	... (b) Taxpayer identity information (which includes IRS current address and social security number) shall be released to consumer reporting agencies ...
44 CFR 333.5	Responsibilities.	... (b) The Department of Defense may advise civilian employers of Ready Reservists of their employees' Ready Reserve status, including name, social security number ...
44 CFR 6.3	Collection and use of information (Privacy Act statements).	... (c) Solicitation of social security numbers . Before an employee of FEMA can deny to any individual a right, benefit, or privilege provided by law because such individual refuses to disclose his/her social security account number , the employee of FEMA shall ensure that either: (1) The disclosure is required by Federal statute; or (2) The disclosure of a social security number was required under a statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. ...

Table 40 Title 45 Public Welfare

Code	Title	Purpose
45 CFR 1177.9	Use of credit reporting agencies.	... (b) Debts may be reported to consumer or commercial reporting agencies. ... The Endowment may disclose only an individual's name, address, social security number , and the nature, amount, status and history of the debt and the program under which the claim arose.
45 CFR 1224.1-7	Use of social security account number in records systems.	[Reserved]
45 CFR 1385.9	Grants administration requirements.	 No personal identifying information such as name, address, and social security number will be obtained.
45 CFR 1800.2	Definitions.	... (c) The term record means any item ... such as social security number ;

Code	Title	Purpose
45 CFR 205.42	Case review and management requirements.	... (v) Payment errors which result when a recipient – (A) Does not have a social security number , but has filed an application (as defined by the Social Security Administration) for a number within 30 calendar days after the date of application for assistance, or (B) Does not furnish a social security number upon receipt but has furnished a social security number through the Enumeration at Birth (EAB) project by the next redetermination of eligibility or within six months after the receipt of the social security number , whichever occurs earlier; and
45 CFR 205.51	Income and eligibility verification requirements.	... (c) Wage information maintained by a SWICA which ... (1) Contain the social security number ...
45 CFR 205.52	Furnishing of social security numbers .	The State plan under title I, IV-A, X, XIV, or XVI (AABD) of the Social Security Act must provide that: (a) As a condition of eligibility, each applicant ... (1) To furnish to the State or local agency a social security account number ...
45 CFR 205.57	Maintenance of a machine readable file; requests for income and eligibility information.	... (a) The State agency will maintain a file which ... contains ... verified social security number ...
45 CFR 205.60	Reports and maintenance of records.	(a) The State agency will maintain or supervise the maintenance of records ... The records will include ... the individual's social security number ...
45 CFR 250.80	Uniform data collection requirements.	(a) A State IV-A agency must provide to the Department a sample ... (2) Each record of the sample must contain an identifier that is not the social security number ...
45 CFR 250.82	Required case record data.	(a) The State IV-A agency must maintain an individual case record for each JOBS participant. ... (1) Case identifier other than social security number , but the State must maintain in its files a link between the identifier and the SSN ;
45 CFR 30.16	Use of credit reporting agencies.	... The Secretary will report overdue debts over \$100 ... The Secretary may disclose only the individual's name, address and social security number ...
45 CFR 30.20	Taxpayer information.	(a) The Secretary shall enter into reimbursable agreements with the Internal Revenue Service ... An applicant for a loan under an included Federal loan program administered by the Department must furnish his or her taxpayer identification number, which, for an individual, means the social security number .
45 CFR 303.71	Requests for full collection services by the Secretary of the Treasury.	... (e) Criteria for acceptable requests. The IV-D agency shall ensure that each request contains: ... (ii) The individual's social security number ;
45 CFR 303.102	Collection of overdue support by State income tax refund offset.	... The State agency responsible for processing the State tax refund offset must notify the State IV-D agency of the absent parent's home address and social security number or numbers. ...
45 CFR 303.30	Securing medical support information.	... (1) AFDC case number, title IV-E foster care case number, Medicaid number or the individual's social security number ; ... (3) social security number of absent parent; (4) Name and social security number of child(ren);
45 CFR 303.30	Securing medical support information.	... (1) AFDC case number, title IV-E foster care case number, Medicaid number or the individual's social security number ; ... (3) social security number of absent parent; (4) Name and social security number of child(ren);
45 CFR 303.70	Requests by the State Parent Locator Service (SPLS) for information from the Federal Parent Locator Service (FPLS).	... (2) The absent parent's social security number (SSN) . If the SSN is unknown, the IV-D agency must make every reasonable effort to ascertain the individual's SSN before submitting the request to the Federal PLS;
45 CFR 303.72	Requests for collection of past-due support by Federal tax refund offset.	... (5) Before submittal, the State IV-D agency has verified the accuracy of the name and social security number of the absent parent ...

Code	Title	Purpose
45 CFR 5.42	Fees to be charged – general provisions.	... (g) This subpart does not apply to requests for Social Security program records on social security number holders ...
45 CFR 60.7	Reporting medical malpractice payments.	...(1) With respect to the physician, dentist or other health care practitioner for whose benefit the payment is made – ... (iv) social security number , if known, and if obtained in accordance with section 7 of the Privacy Act of 1974, ...
45 CFR 60.8	Reporting licensure actions taken by Boards of Medical Examiners.	... (4) The physician's or dentist's social security number , if known, and if obtained in accordance with section 7 of the Privacy Act of 1974, ...
45 CFR 60.9	Reporting adverse actions on clinical privileges.	... The health care entity must report ... the physician or dentist: ... (iv) social security number , if known, and if obtained in accordance with section 7 of the Privacy Act of 1974, ...
45 CFR Appendix A to Part 801	... Forms of Application	... Voting Rights Act Application ... The disclosure of social security number and telephone number is voluntary. Failure to state either or both numbers will NOT result in your application being deficient.

Table 41 Title 46 Shipping

Code	Title	Purpose
46 CFR 10.110	Fee payment procedures.	... Fee payment by check or money order must have the applicant's (payor's) social security number included thereon. ...
46 CFR 10.201	Eligibility for licenses and certificates of registry, general.	... (4) An applicant may request an NDR file check for personal use ... Form NDR-PRV or provide the following information on a notarized letter: ... (F) social security number ;
46 CFR 12.02-17	Rules for the preparation and issuance of documents.	... (c) When a seaman applies for a merchant mariner's document, he must: ... (d) A seaman's social security number is placed on his document and is his official identification number for record purposes.
46 CFR 12.02-18	Fees.	... Fee payment must be made by check or money order with the applicant's (payor's) social security number included thereon.
46 CFR 12.02-4	Basis for denial of documents.	... (i) Applicants should request Form NDR-PRV or provide the following information on a notarized letter: ... (F) social security number ;
46 CFR 12.02-4	Basis for denial of documents.	... (i) Applicants should request Form NDR-PRV or provide the following information on a notarized letter: ... (F) social security number ;
46 CFR 12.02-17	Rules for the preparation and issuance of documents.	... (d) A seaman's social security number is placed on his document and is his official identification number for record purposes. ...
46 CFR 12.02-18	Fees.	... Fee payment must be made by check or money order with the applicant's (payor's) social security number included thereon.
46 CFR 197.570	Recordkeeping.	(a) Record of personal exposure monitoring. (1) The employer shall maintain an accurate record of all monitoring conducted in compliances with Sec. 197.540 for three years. (2) The record must include – ... (iv) The name, social security number , and job classification of each person monitored ... The employer shall maintain an accurate medical record for each employee subjected to medical surveillance ... (i) The name and social security number ...
46 CFR 28.80	Report of casualty.	... (c) Each report of casualty must include the following information: ... (11) The name, birth date, social security number ...
46 CFR 327.4	Claim requirements.	... (b) Contents. Each claim shall include the ... (vi) Merchant mariner license or document number and social security number

Table 42 Title 47 Telecommunication

Code	Title	Purpose
47 CFR 0.554	Procedures for requests pertaining to individual records in a system of records.	... Note: An individual's refusal to disclose his social security number shall not constitute cause in and of itself, for denial of a request. ...
47 CFR 64.1100	Verification of orders for long distance service generated by telemarketing.	No IXC shall submit to a LEC a primary interexchange carrier (PIC) ... unless and until the order has first been confirmed ... that confirms and includes appropriate verification data (e.g., the customer's date of birth or social security number); or ...
47 CFR 76.12	Registration statement required.	... (a) The legal name of the operator, entity identification or social security number , and ...

Table 43 Title 48 Federal Acquisition Regulations System

Code	Title	Purpose
48 CFR 1552.224-70	social security numbers of consultants and certain sole proprietors and Privacy Act statement.	... Section 6109 of title 26 of the U.S. Code authorizes collection by EPA of the social security numbers of such individuals for the purpose of filing IRS Form 1099. ... (b) If the offeror or quoter is an individual, consultant, or sole proprietor and has no employer identification number, insert the offeror's or quoter's social security number on the following line.
48 CFR 1652.224-70	Confidentiality of records.	... the following clause shall be inserted in all FEHBP contracts: ... (a) The Carrier shall use the personal data ... that is provided by agencies ... including social security numbers ... Release of information for medical research or educational purposes shall be limited to aggregated information of a statistical nature that does not identify any individual by name, social security number , or any other identifier unique to an individual.
48 CFR 1852.235-72	Instructions for responding to NASA Research Announcements.	... Omit social security number and other personal items which do not merit consideration in evaluation of the proposal.
48 CFR 22.406-9	Withholding from or suspension of contract payments.	... The contracting officer shall include ... a listing of the name, social security number ...
48 CFR 2452.237-75	Clearance of personnel.	... (c) Temporary identification/building passes shall be issued ... The Contractor shall submit to the GTR a list of those employee(s) with their social security number(s)
48 CFR 2452.237-75	Clearance of personnel.	...(c) Temporary identification/building passes shall be issued ... The Contractor shall submit to the GTR a list of those employee(s) with their social security number(s)
48 CFR 52.222-27	Affirmative Action Compliance Requirements for Construction.	... Employer identification number, as used in this clause, means the Federal social security number used on the employer's quarterly Federal tax return, U.S. Treasury Department Form 941. ...
48 CFR 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation.	... The Contractor or subcontractor shall maintain payrolls and basic payroll records ... Such records shall contain ... social security number ...
48 CFR 52.222-8	Payrolls and Basic Records.	... Such records shall contain the name, address, and social security number of each such worker ...
48 CFR 52.222-41	Service Contract Act of 1965, as Amended.	... The Contractor and each subcontractor performing work subject to the Act shall make ... a record of ... (A) Name and address and social security number ;

Table 44 Title 49 Transportation

Code	Title	Purpose
49 CFR 10.29	social security numbers.	(a) No individual is denied any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number . (b) The provisions of paragraph (a) of this section do not apply to: (1) Any disclosure which is required by Federal statute; or (2) The disclosure of a social security number when such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of an individual.
49 CFR 225.25	Recordkeeping.	... (b) The alternative railroad-designed record ... shall contain, at a minimum, the ... (6) social security number of railroad employee;
49 CFR Appendix C to Part 240	Procedures for Obtaining and Evaluating Motor Vehicle Driving Record Data	... The National Driver Register ... may be supplemented by data concerning the person's height, weight, color of eyes, and social security account number , if a State collects such data. ...
49 CFR 383.153	Information on the document and application.	... (d) Except in the case of a Nonresident CDL: (1) A driver applicant must provide his/her social security number on the application of a CDL; and (2) The State must provide the social security number to the CDLIS.
49 CFR 391.21	Application for employment.	... a person shall not drive a commercial motor vehicle unless ... completed ... an application for employment that ... must contain the following information: ... (2) The applicant's name, address, date of birth, and social security number ;
49 CFR 391.63	Multiple-employer drivers.	... (b) Before a motor carrier permits a multiple-employer driver to drive a commercial motor vehicle, the motor carrier must obtain his/her name, his/her social security number ...
49 CFR 40.23	Preparation for testing.	... (ii) Employers and other participants in the DOT drug testing program ... (other than the social security number or other employee ID number) may not be provided to the laboratory.
49 CFR 89.29	Disclosure to commercial credit bureaus and consumer reporting agencies.	... (b) The information that may be disclosed is the debtor's name, address, social security number or taxpayer identification number ...

Table 45 Title 50 Wildlife and Fisheries

Code	Title	Purpose
50 CFR 630.4	Permits and fees.	... An application for a dealer permit must ... (ii) Business name ... employer identification number, if one has been assigned ... (iv) Name, ... telephone number, social security number ...
50 CFR 640.4	Permits and fees.	... (2) An applicant must provide ... (iii) Name, mailing address including zip code, telephone number, social security number ...
50 CFR 649.5	Operator permits.	... (d) Information requirements. An applicant must provide at least all the following information and any other information required by the Regional Director: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. ...
50 CFR 678.4	Permits and fees.	... An application for a vessel permit must be ... (iii) Name, mailing address including ZIP code, telephone number, and social security number ...

Court Cases

This section provides references to several United States Circuit Court and United States Supreme Court cases brought with regard to the social security number. We decided against publishing copies of these case because it would add little value for the increased cost. Complete copies of these cases are available from several InterNet source for no charge. The Comments column provides just enough information to help you understand the content of the case.

Case	Comments
Yeager v. Hackensack Water Co., 615 F. Supp. 1087, 1090-92 (D.N.J. 1985);	Case based on constitutional and Privacy Act objections to a New Jersey independent water company requirement for SSN. The defendants [Hackensack Water Co.] are directed to comply with the disclosure requirements of the Privacy Act in their attempt to collect social security numbers. Defendants are constrained in their use of the numbers already collected until retroactive compliance is achieved.
Steward Machine v. Davis (1937)	Social Security Act is constitutional.
Flemming v. Nester (1960)	No "vested rights" to benefits under the Social Security System.
United States v. Lee (1983)	Amish employer & social security taxes.
Callahan v. Woods (1984)	Wins religious objection to requirement that a minor must obtain a social security number to receive federal benefits.
Valldejuli v. SSA & IRS (Unpublished 1994)	Lost his argument that he was fraudulently induced into signing a "contract" with the Social Security Administration, and that he is not subject to the Social Security system.
Hatter v. United States (1996)	Sixteen federal judges challenged the withholding of Social Security taxes from their judicial salaries as a violation of the Compensation Clause of the United States Constitution, Article III, section 1.
United States v. Bongiorno (1997)	Challenged his conviction on the ground that the Child Support Recovery Act is an unconstitutional exercise of Congress' authority under the Commerce Clause.
Peister v. State Department of Social Services (1993)	Resignation from social security and return of social security card.
Greidinger v. Davis, 782 F. Supp. 1106, 1108-09 (E.D. Va. 1992)	Objection to requirement to divulge a SSN as a condition to vote. Privacy Act violated where state did not provide timely notice in accordance with Section 7(b) when collecting social security number for voter registration, rev'd & remanded on other grounds, 988 F.2d 1344 (4th Cir. 1993);
Brookens v. United States, 627 F.2d 494, 496-99 (D.C. Cir. 1980)	Agency did not violate Privacy Act because agency maintained system of records "before January 1, 1975 and disclosure of a social security number to identify individuals was required under [executive order]

Case	Comments
McElrath v. Califano, 615 F.2d 434, 440 (7th Cir. 1980)	Because disclosure of social security number required by Aid to Families with Dependent Children program under 42 U.S.C. 602(a)(25) (1988), regulations that give effect to that requirement are not violative of Privacy Act
Krebs v. Rutgers, 797 F. Supp. 1246, 1256 (D.N.J. 1992)	Although state-chartered, Rutgers is not state agency or government-controlled corporation subject to Privacy Act Students successfully sued Rutgers and Rutgers' president for dissemination of class rosters with student social security number's to faculty and students.
Libertarian Party v. Bremer Ehrler, Etc., No. 91-231, slip op. at 17-18 (E.D. Ky. Sept. 30, 1991)	Requirement that voter include social security number on signature petition violates Privacy Act
Ingerman v. IRS, No. 89-5396, slip op. at 3-5 (D.N.J. Apr. 3, 1991)	Section 7(b) not applicable to IRS request that tax payers affix printed mailing label containing social security number on tax returns; no new disclosure occurs because IRS already was in possession of taxpayers' social security numbers, aff'd, 953 F.2d 1380 (3d Cir. 1992) (table cite)
Oakes v. IRS, No. 86-2804, slip op. at 2-3 (D.D.C. Apr. 16, 1987)	Section 7(b) does not require agency requesting individual to disclose his social security number to publish any notice in Federal Register
Doyle v. Wilson, 529 F. Supp. 1343, 1348-50 (D. Del. 1982)	Section 7(b)'s requirements are not fulfilled when no affirmative effort is made to disclose information required under 7(b) "at or before the time the number is requested"
Doe v. Sharp, 491 F. Supp. 346, 347-50 (D. Mass. 1980)	Section 7(b) creates affirmative duty for agencies to inform applicant of uses to be made of social security numbers--"after-the-fact explanations" not sufficient)
Chambers v. Klein, 419 F. Supp. 569, 580 (D.N.J. 1976)	Section 7(b) not violated where agency failed to notify applicants of use to be made of social security numbers as state had not begun using them pending full implementation of statute requiring their disclosure), aff'd, 564 F.2d 89 (3d Cir. 1977) (table cite)...."

Case	Comments
Weber V Leaseway Dedicated	Plaintiff Don M. Weber appeals the district court's grant of summary judgment in favor of Defendant Leaseway Dedicated Logistics, Inc. (hereafter "Leaseway") under Fed. R. Civ. P. 56. Also before the court is Plaintiff's motion to proceed on appeal in forma pauperis. In his complaint, Plaintiff asserted that Defendant discriminated against him because of his religious beliefs in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., when Defendant refused to hire Plaintiff unless he provided Defendant with his social security number. Our jurisdiction arises under 28 U.S.C. § 1291. We review the district court's grant of summary judgment de novo, using the same standard applied by the district court. <i>Aramburu v. The Boeing Co.</i>, 112 F.3d 1398, 1402 (10th Cir. 1997). We grant Plaintiff's motion to proceed in forma pauperis, and affirm the district court. Plaintiff refuses to obtain or use a social security number because he claims it represents the "mark of the beast" as described in the Book of Revelations in the Bible. In April 1996, Plaintiff applied for a position as a truck driver with Defendant. On the application for employment Plaintiff refused to provide a social security number. Defendant did not hire Plaintiff and informed him that he would not be hired without a social security number. ... Therefore, we reject Plaintiff's argument. For these reasons:
Roy Dittman v. State of California	Plaintiff, Roy Dittman, appeals from the district court's grant of summary judgment in favor of defendants the State of California Acupuncture Committee (Committee) and Marilyn Nielsen, whom Plaintiff sued in her individual capacity and in her official capacity as Executive Officer of the Committee. Plaintiff alleged that Defendants' refusal to renew his license to practice acupuncture unless he first disclosed his social security number, as required by California law, violated both his right to due process under the Fourteenth Amendment and S 7(a)(1) of the Privacy Act (uncodified), 5 U.S.C.A. S 552a (note), Pub. L. No. 93-579, 88 Stat. 1896, et seq. We affirm.

Case	Comments
Miller v Reed U.S. 9th Circuit Court of Appeals	Miller lost this appeal against the California Department of Motor Vehicles: The California Department of Motor Vehicles (“DMV”) rejected Donald S. Miller's application for renewal of his driver's license because he refused to divulge his social security number. Miller's refusal was based on religious grounds. As part of his long-standing and deeply held religious convictions, Miller believes that to reveal his social security number would be tantamount to a sin. Without a valid driver's license from his home state of California, Miller cannot legally drive anywhere in the United States.
Sutton v Providence U.S. 9th Circuit Court of Appeals	Defendant, the Providence St. Joseph Medical Center, refused to hire plaintiff Kenneth E. Sutton, Jr., after he failed to provide a social security number as required by federal law. Plaintiff brought this action alleging that Defendant thereby violated Title VII of the 1964 Civil Rights Act, as amended (Title VII), 42 U.S.C. S 2000e et seq.; the Religious Freedom Restoration Act (RFRA), 42 U.S.C. S 2000bb et seq.; the free speech guarantee of the First Amendment; the Privacy Act, 5 U.S.C. S 552a; and the Paperwork Reduction Act, 44 U.S.C. S 3512. Plaintiff also brought various state claims. The district court dismissed the federal claims pursuant to Federal Rule of Civil Procedure 12(b)(6) and, thereafter, refused to exercise supplemental jurisdiction over the state claims. For the reasons that follow, we affirm.

Some Examples

This section provides three case examples against using a social security number: two wins, one loss.

EEOC v. Information Systems Consulting

Plaintiff's Response to Defendant's Motion to Dismiss

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

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
Plaintiff,	)	CIVIL ACTION
	)	
V.	)	NO.CA3-92-0169-T
	)	
INFORMATION SYSTEMS CONSULTING	)	
A DIVISION OF DIVERSIFIED HUMAN	)	
RESOURCES GROUP,	)	
Defendant.	)	

PLAINTIFF'S RESPONSE TO DEFENDENT'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 accommodate 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. S. 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 COMMISSIONS 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 employees' 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. Tumen 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 an 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. S 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

JEFFREY C. BANNON
Regional Attorney
Connecticut State Bar No. 301166

Consent Decree

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

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
Plaintiff,	)	CIVIL ACTION
	)	
V.	)	NO.CA3-92-0169-T
	)	
INFORMATION SYSTEMS CONSULTING	)	
A DIVISION OF DIVERSIFIED HUMAN	)	
RESOURCES GROUP,	)	
Defendant.	)	

CONSENT DECREE

This action was initiated on January 27, 1992, by the plaintiff, the Equal Employment Opportunity Commission (hereinafter the "Commission"), an agency of the United States Government, alleging that the defendant, Information Systems Consulting, A Division of Diversified Human Resources Group, had violated Title VII of the Civil Rights Act of 1964, as amended, by terminating Bruce Hanson because of his refusal to obtain a social security number after Mr. Hanson advised the defendant that obtaining or using a social security number was in conflict with his religious beliefs.

The Commission and Information Systems Consulting, A Division of Diversified Human Resources Group desires to settle this action, and therefore, do hereby stipulate and consent to the entry of his Consent Decree as final and binding between the parties signatory hereto and their successors or assigns. This Decree resolves all matters related to Complaint CA3-92-0169-T filed in the United States District Court for the Northern District of Texas, Dallas Division. The parties have agreed that this Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, the Commission and Information Systems Consulting, A Division of Diversified Human Resources Group agree as follows, the Court finds appropriate, and therefore it is ORDERED, ADJUDGED AND DECREED that:

1. This Decree revolves all issues raised in the EEOC charge No. 310-89-2438. This Decree further resolves all issues in the Complaint filed by the Commission in this case. The Commission waives further litigation on all issues raised in the above referenced charge and Complaint. The Commission does not waive processing or litigating charges other than the charge referred to above.

2. The parties agree and the Court finds that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites to filing suit have been satisfied.

3. By entering into this Decree, the parties have not admitted any contentions regarding the allegations on the merits of this cause of action. No party shall contest the validity of this Decree nor the jurisdiction of the federal district court to enforce its Decree and its terms or the right of any party to bring an enforcement suit upon breach of any of the terms of this Decree by any other party. Jurisdiction over this action is retained by the Court for the purpose of enabling any of the parties to this Consent Decree to apply to the Court at any time for such further order and directions as may be necessary or appropriate for the construction or implementation of the Decree or any of its provisions, or for the enforcement or compliance therewith.

4. This Decree is being issued with the consent of the parties and does not constitute an adjudication or finding by this Court on the merits of the allegations of the complaint. By entering into this Decree, Information Systems Consulting, A Division of Diversified Human Resources Group, does not admit, nor has this Court made any determination with respect to, the claims that there have been any violations of Title VII or any other statute, regulations or ordinance promulgated by any federal, state or local agency dealing with discrimination, by Information Systems Consulting, A Division of Diversified Human Resources Group. Nothing contained in this Decree shall be construed as an admissions of liability on the part of the defendant.

5. The defendant, Information Systems Consulting, A Division of Diversified Human Resources Group, in settlement of this dispute, shall make an award of backpay in the amount of \$10,000.00 to Bruce Hanson. The award shall be paid as follows:

- (a) a payment of \$3,500.00 shall be made upon entry of the Consent Decree;
- (b) a payment of \$3,500.00 shall be made four months after the entry of the Consent Decree;

(c) a payment of \$3,000.00 shall be made eight (8) months after the entry of the Consent Decree.

6. The defendant shall make legal deductions for withholding of Federal income taxes and the employee portion of social security from the backpay checks. The defendant shall include with the check, an itemized statement indicating specific amounts paid and deductions made. All W-2 forms shall be provided as required by law.

7. The defendant shall make all employer contributions to social security as required by law on the back wages to be paid to Bruce Hanson pursuant to this Consent Decree.

8. The defendant, Information Systems Consulting, A Division of Diversified Human Resources Group, shall be permanently enjoined from terminating an employee or refusing to hire an individual for failure to provide a social security number because of religious beliefs. If an employee or applicant for employment advises the defendant that he does not have a social security number because of his religious beliefs, the defendant shall request, pursuant to Section 6724 of the Internal Revenue Service Code, 26 U.S.C. §6724, a waiver of any penalties that may be imposed for failing to include an employee social security number on forms and documents submitted to the IRS. In the event the waiver is granted the employee shall be treated the same as all other employees.

9. For a period of two (2) years from the entry of this Decree the defendant shall provide a report to the Equal Employment Commission of all applicants or employees who refuse to provide a social security number because of religious beliefs. The Commission shall be notified within ten (10) days of the date the defendant is notified that the individual does not have a social security number because of religious beliefs. The defendant shall advise the Commission of the date the IRS waiver was requested and the outcome of the request. The reports shall be directed to:

Jeffrey C. Bannon
Regional Attorney
Equal Employment Opportunity Commission
8303 Elmbrook Drive, 2nd Floor
Dallas, Texas 75247

10. Bruce Hanson hereby specifically and voluntarily waives any right to reinstatement.

11. Bruce Hanson hereby agrees to release the defendant from all claims, demands, damages and causes of action arising from the allegations in charge number 310 89 2438 and agrees that this Consent Decree resolves all issues arising out of the claims alleged in charge number 310 89 2438.

12. The defendant shall post the notice attached as Exhibit A in a conspicuous place for sixty (60) days from entry of this decree.

13. The parties agree to pay their own costs.

SO ORDERED, ADJUDGED AND DECREED this 30 day of October, 1992.

[signed]

UNITED STATES DISTRICT JUDGE FOR
THE NORTHERN DISTRICT OF TEXAS

Weber v. Leaseway Dedicated

U.S. 10th Circuit Court of Appeals

WEBER v LEASEWAY DEDICATED

UNITED STATES COURT OF APPEALS TENTH CIRCUIT

DON M. WEBER, II,	)	
Plaintiff - Appellant,	)	No. 98-3172
	)	
v.	)	(D.C. No. 97-CV-2209-GTV
	)	
LEASEWAY DEDICATED	)	(D. Kan.)
LOGISTICS, INC., formerly	)	
known as Leaseway Logistics	)	(5 F.Supp.2d 1219)
Service, a California corporation,	)	
Defendant - Appellee.	)	

Order and Judgment¹

Before SEYMOUR, Chief Judge, BALDOCK, and HENRY, Circuit Judges.²

Plaintiff Don M. Weber appeals the district court's grant of summary judgment in favor of Defendant Leaseway Dedicated Logistics, Inc. (hereafter "Leaseway") under Fed. R. Civ. P. 56. Also before the court is Plaintiff's motion to proceed on appeal in forma pauperis. In his complaint, Plaintiff asserted that Defendant discriminated against him because of his religious beliefs in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., when Defendant refused to hire Plaintiff unless he provided Defendant with his social security number. Our jurisdiction arises under 28 U.S.C. § 1291. We review the district court's grant of summary judgment de novo, using the same standard applied by the district court. *Aramburu v. The Boeing Co.*, 112 F.3d 1398, 1402 (10th Cir. 1997). We grant Plaintiff's motion to proceed in forma pauperis, and affirm the district court.

Plaintiff refuses to obtain or use a social security number because he claims it represents the "mark of the beast" as described in the Book of Revelations in the Bible. In April 1996, Plaintiff applied for a position as a truck driver with Defendant. On the application for employment Plaintiff refused to provide a social security number. Defendant did not hire Plaintiff and informed him that he would not be hired without a social security number.

-
1. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.
 2. After examining the briefs and appellate record, this panel has determined that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a) (2)(C); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

We analyze Title VII religious discrimination claims under a burden-shifting approach. See *Toledo v. Nobel-Sysco, Inc.*, 892 F.2d 1481, 1486 (10th Cir. 1989). First the employee must establish a prima facie case of religious discrimination by showing that (1) he has a bona fide religious belief in conflict with an employment requirement; (2) he informed the employer of the belief; and (3) he was not hired because he failed to satisfy the requirement. *Id.* Once the plaintiff has established a prima facie case, the burden shifts to the employer to show that a reasonable accommodation would result in undue hardship to the employer. 42 U.S.C. § 2000e(j); *Lee v. ABF Freight Sys., Inc.*, 22 F.3d 1019, 1022 (10th Cir. 1994) The district court concluded that Plaintiff could not establish a prima facie case. The district court further concluded that assuming arguendo that Plaintiff met his burden, his claim would still fail because accommodating Plaintiff would place an undue hardship on Defendant. We agree with the district court's conclusion that accommodating Plaintiff would place an undue hardship on Defendant.

Under federal law, all employers are required to withhold certain income taxes and social security taxes and file a report with the Internal Revenue Service as to each individual employee. These reports require identification of the employee by social security number. 26 U.S.C. § 6109; 26 C.F.R. §§ 31.6109-1, 31.6051-1(a)(1). Requiring Defendant to violate these laws in order to accommodate Plaintiff would result in undue hardship to Defendant. See *United States v. Board of Educ.*, 911 F.2d 882, 891 (3rd Cir. 1990) (requiring defendant to violate state statute to accommodate plaintiff resulted in undue hardship); see also *Droz v. Commissioner of IRS*, 48 F.3d 1120, 1123 (9th Cir. 1995) (compulsory participation in the social security system, where the plaintiff's objection is based on religious grounds, is not unconstitutional).

Furthermore, by accommodating Plaintiff's refusal to provide a social security number, Defendant would be subject to penalties from the IRS for not reporting the employee's social security number. See 26 U.S.C. §§ 6722, 6723. To require an employer to subject itself to potential fines also results in undue hardship. See *Lee*, 22 F.3d at 1023. In response, Plaintiff argues that Defendant would not be subject to undue hardship because Defendant could receive a waiver of penalties under 26 U.S.C. § 6724. Section 6724(a) provides that “[n]o 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.” Plaintiff cited no authority to support his contention that the Internal Revenue Service would find that Defendant's omission of Plaintiff's social security number was due to “reasonable cause.” Cf. *EEOC v. Allendale Nursing Centre*, 996 F.Supp. 712, 718 (W.D. Mich. 1998) (employer under no obligation to seek § 6724 waiver in order to accommodate Plaintiff). Therefore, we reject Plaintiff's argument. For these reasons, the judgment of the district court is **AFFIRMED**.

Entered for the Court,
Bobby R. Baldock
Circuit Judge

Authur Thomas v. Taco Bell

Authur Thomas was hired by Taco Bell 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.

Unlike most large American businesses, Taco Bell demonstrated an honest regard for learning the truth. This responsible position helped both Authur Thomas and Taco Bell avoid expensive litigation; in the end, Taco Bell restored Authur's lost pay and offered him his job back. There is no actual Authur Thomas v. Taco Bell case because the issue never went to court. Certainly, it is refreshing to learn about businesses who make an extra effort to do what is right!

Taco Bell's legal department verified each legal fact with both the Social Security Administration and with the Internal Revenue Service. Their investigation resulted in the following discoveries:

- The Social Security Administration verified that there is no law which requires an individual to obtain a social security number.
- Social Security is a voluntary system in that no one is required to obtain a social security number.
- There is no IRS penalty imposed on a corporation by the IRS if the failure to show a social security number or TIN for an employee is due to reasonable cause and not to willful neglect.
- The employer must request the employee to provide the employer with a social security number 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 returns without the social security number, then the §6721(c)(1)(B) \$50.00 penalty applies.
- The Internal Revenue Code only makes it *appear to require* that which is actually voluntary.
- That the IRS does not have the authority to require an employer to provide or deny employment or services to anyone who refuses to disclose a social security number or TIN. This is a matter between the individual and the employer.

An additional result of Taco Bell's research caused them to change their employment application to include the word "optional" in the social security number field.

About the Social Security Number and Card

What the Digits Mean

The nine-digit social security number is divided into three parts. The first three digits indicate the state shown in the mailing address on the original application. The lowest social security numbers were assigned to the New England states, and the numbers grew progressively higher in the South and West. However, in recent years, this geographical relationship has been disrupted somewhat by the need to allocate numbers out of sequence as State populations' change.

The middle two digits of a social security number have no special significance, but merely serve to break the numbers into blocks of convenient size. The last four digits represent a straight numerical progression of assigned numbers.

Social Security Administration has issued more than 392 million social security numbers, and more than five million new numbers are assigned each year. But even at this rate, there will be no need to reissue the same numbers, revise the present system, or devise a new numbering system for several generations. For this reason, Social Security Administration plans to continue using the nine-digit number.

The Structure of the Social Security Number

The social security number is structured as follows:

- The first three digits indicate the state where social security number is issued.
- The middle two digits indicate the approximate year the card was issued. "00" was never used. Odd numbers of 05, 07 and 09 were issued in the late 1930s, and the even numbers of 10 or greater were issued in the later years.
- The last four digits is a sequential number of no particular significance.

The following are the first three digit ranges assigned per state:

First Three Digits	State
001-003	New Hampshire
004-007	Maine
008-009	Vermont

First Three Digits	State
010-034	Massachusetts
035-039	Rhode Island
040-049	Connecticut
050-134	New York
135-158	New Jersey
159-211	Pennsylvania
212-220	Maryland
221-222	Delaware
223-231	Virginia & West Virginia
232-232	North Carolina
233-236	Not in use
237-246	North Carolina
247-251	South Carolina
252-260	Georgia
261-267	Florida
268-302	Ohio
303-317	Indiana
318-361	Illinois
362-386	Michigan
387-399	Wisconsin
400-407	Kentucky
408-415	Tennessee
416-424	Alabama
425-428	Mississippi
429-432	Arkansas
433-439	Louisiana
440-448	Oklahoma

About the Social Security Number and Card

First Three Digits	State
449-467	Texas
468-477	Minnesota
478-485	Iowa
486-500	Missouri
501-502	North Dakota
503-504	South Dakota
505-508	Nebraska
509-515	Kansas
516-517	Montana
518-519	Idaho
520-520	Wyoming
521-524	Colorado
525-525	New Mexico
526-527	Arizona
528-529	Utah
530-530	Nevada
531-539	Washington
540-544	Oregon
545-573	California
574-574	Alaska
575-576	Hawaii
577-579	Washington, D.C.
580-584	Puerto Rico & Virgin Islands
585-585	New Mexico
586-586	Guam, Samoa & Pacific Territories
587-588	Mississippi
589-595	Florida

First Three Digits	State
596-599	Not in use
600-601	Arizona
602-626	California
627-699	Not in use
700-728	Railroad Retirement
729-999	Not in use

The following range of first three digits are currently not used by the Social Security Administration:

- 233 through 236
- 596 through 599
- 627 through 699
- 729 through 999

The Right to Travel

At first glance this issue does seem to be directly related to the social security number issue. However, because of recent changes in State laws making it more difficult for unenumerated citizens to obtain a driver's license, there will soon be a substantial increase in the number of drivers who do not possess a valid driver's license. This issue becomes important when you are forced to drive without a license and become involved in a traffic stop. It is included for that reason.

The following has been used successfully as a legal brief to support a demand for dismissal of charges for driving without a license. It is the successful argument that was the reason for charges being dropped, or for a *win* in court against the argument that free people can have their right to travel regulated by their servants.

The forgotten legal maxim is that free people have a right to travel on the roads which are provided by their servants for that purpose, using ordinary transportation of the day. Licensing cannot be required of free people, because taking on the restrictions of a license requires the surrender of a right. The driver's license can be required of people who use the highways for trade, commerce, or hire; that is, if they earn their living on the road, and if they use extraordinary machines on the roads. In other words, if you are not using the highways for profit, you cannot be required to have a driver's license.

This brief or the right it demonstrates is no substitute for being safe on the road or for learning the subject of *rights* versus *regulations* thoroughly before attempting to use or act upon this information.

Brief in Support of Notice for Dismissal for Lack of Jurisdiction

Now, comes the Accused, appearing specially and not generally or voluntarily, but under threat of arrest if he failed to do so, with this "Brief in Support of Notice for Dismissal for Lack of Jurisdiction," stating as follows:

Argument

If ever a judge understood the public's right to use the public roads, it was Justice Tolman of the Supreme Court of the State of Washington. Justice Tolman stated:

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment." *Robertson vs. Department of Public Works*, 180 Wash 133, 147.

The words of Justice Tolman rings most prophetically in the ears of Citizens throughout the country today as the use of the public roads has been monopolized by the very entity which has been empowered to stand guard over our freedoms, i.e., that of state government.

Rights

The "most sacred of liberties" of which Justice Tolman spoke was personal liberty. The definition of personal liberty is:

"Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most *sacred and valuable Rights*, as sacred as the Right to private property ... and is regarded as *inalienable*." 16 C.J.S., Constitutional Law, Sect.202, p.987.

This concept is further amplified by the definition of personal liberty:

"Personal liberty largely consists of the Right of locomotion – to go where and when one pleases – only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or *automobile*, is *not a mere privilege* which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct." [emphasis added] 11 Am.Jur. (1st) Constitutional Law, Sect.329, p.1135.

and further ...

"Personal liberty – consists of the power of locomotion, of changing situations, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint unless by due process of law." 1 *Blackstone's Commentary* 134; *Bovier's Law Dictionary*, 1914 ed., *Black's Law Dictionary*, 5th ed.

Justice Tolman was concerned about the State prohibiting the Citizen from the "most sacred of his liberties," the Right of movement, the Right of moving one's self from place to place without threat of imprisonment, the Right to use the public roads in the ordinary course of life.

When the State allows the formation of a corporation it may control its creation by establishing guidelines (statutes) for its operation (charters). Corporations who use the roads in the course of business do not use the roads in the ordinary course of life. There is a difference between a corporation and an individual. The United States Supreme Court has stated:

“... We are of the opinion that there is a clear distinction in this particular between an individual and a *corporation*, and that the latter *has no right* to refuse to submit its books and papers for examination on the suit of the State. The *individual may stand upon his Constitutional Rights* as a Citizen. He is entitled to carry on his *private* business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to investigation, so far as it may tend to incriminate him. *He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life, liberty, and property.* His Rights are such as the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his Rights are the refusal to incriminate himself, and the *immunity of himself and his property from arrest or seizure except under warrant of law.* He owes nothing to the public so long as he does not trespass upon their rights.

“Upon the other hand, the *corporation is a creature of the state*. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its rights to act as a corporation are only preserved to it *so long as it obeys the laws of its creation*. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that the State, having chartered a corporation to make use of certain franchises, could not in exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, and demand the production of corporate books and papers for that purpose.” [emphasis added] *Hale vs. Hinkel*, 201 US 43, 74-75.

Corporations engaged in mercantile equity fall under the purview of the State's admiralty jurisdiction, and the public at large must be protected from their activities, as they (the corporations) are engaged in business for profit.

“... Based upon the fundamental ground that the sovereign state has the plenary control of the streets and highways in the exercise of its police power (see police power, *infra.*), may absolutely prohibit the use of the streets as a place for the prosecution of a private business for gain. They all recognize the fundamental distinction between the ordinary Right of the Citizen to use the streets in the usual way and the use of the streets as a place of business or a main instrumentality of business for private gain. The former is a common Right, the latter is an extraordinary use. As to the former the legislative power is confined to regulation, as to the latter it is plenary and extends even to absolute prohibition. Since the use of the streets by a common carrier in the prosecution of its business as such is not a right but a mere license of privilege.” *Hadfield vs. Lundin*, 98 Wash 657l, 168, p.516.

It will be necessary to review early cases and legal authority in order to reach a lawfully correct theory dealing with this Right or “privilege.” We will attempt to reach a sound conclusion as to what is a “Right to use the road” and what is a “privilege to use the road.”

Once reaching this determination, we shall then apply those positions to modern case decision.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda vs. Arizona*, 384 US 436, 491.

and ...

"The claim and exercise of a constitutional Right cannot be converted into a crime." *Miller vs. U.S.*, 230 F. 486, 489.

and ...

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." *Snerer vs. Cullen*, 481 F. 946.

Streets and highways are established and maintained for the purpose of travel and transportation by the public. Such travel may be for business or pleasure.

"The use of the highways for the purpose of travel and transportation is *not a mere privilege*, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived." [emphasis added] *Chicago Motor Coach vs. Chicago*, 169 NE 22; *Ligare vs. Chicago*, 28 NE 934; *Boon vs. Clark*, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163.

and ...

"The Right of the Citizen to travel upon the public highways and to transport his property thereon, either by horse drawn carriage or by automobile, is *not a mere privilege* which a city can prohibit or permit at will, but a common Right which he has under the right to life, liberty, and the pursuit of happiness." [emphasis added] *Thompson vs. Smith*, 154 SE 579.

So we can see that a Citizen has a Right to travel upon the public highways by automobile and the Citizen cannot be rightfully deprived of his Liberty. So where does the misconception that the use of the public road is always and only a privilege come from?

"... For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion." *State vs. Johnson*, 243 P. 1073; *Hadfield*, supra; *Cummins vs. Homes*, 155 P. 171; *Packard vs. Banton*, 44 S.Ct. 256; and other cases too numerous to mention.

Here the court held that a Citizen has the Right to travel upon the public highways, but that he did not have the right to conduct business upon the highways. On this point of law all authorities are unanimous.

"Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain." *Barney vs. Board of Railroad Commissioners*, 17 P.2d 82; *Willis vs. Buck*, 263 P.1 982.

and ...

“The right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business for private gain in the running of a stagecoach or omnibus.” *State vs. City of Spokane*, 186 P. 864.

What is this Right of the Citizen which differs so “radically and obviously” from one who uses the highway as a place of business? Who better to enlighten us than Justice Tolman of the Supreme Court of Washington State? In *State vs. City of Spokane*, supra, the Court also noted a very “radical and obvious” difference, but went on to explain just what the difference is:

“The former is the usual and ordinary right of the Citizen, a common right to all, while the latter is special, unusual, and extraordinary.”

and ...

“This distinction, elementary and fundamental in character, is recognized by all the authorities.” *State vs. City of Spokane*, supra.

This position does not hang precariously upon only a few cases, but has been proclaimed by an impressive array of cases ranging from the state courts to the federal courts.

“the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary.” *Ex Parte Dickey*, (*Dickey vs. Davis*), 85 SE 781.

and ...

“The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business.” *Teche Lines vs. Danforth, Miss.*, 12 S.2d 784; *Thompson vs. Smith*, supra.

There is no dissent among various authorities as to this position. (See Am.Jur. [1st] Const. Law, 329 and corresponding Am. Jur. [2nd].)

“Personal liberty – or the right to enjoyment of life and liberty – is one of the fundamental or natural rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from nor dependent on the U.S. Constitution ... It is one of the most sacred and valuable rights [remember the words of Justice Tolman, supra.] as sacred as the right to private property ... and is regarded as inalienable.” 16 C.J.S. Const. Law, Sect.202, p.987.

As we can see, the distinction between a “Right” to use the public roads and a “privilege” to use the public roads is drawn upon the line of “using the road as a place of business” and the various state courts have held so. But what have the U.S. courts held on this point?

“First, it is well established law that the highways of the state are public property, and their primary and preferred use is for private purposes, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit.” *Stephenson vs. Rinford*, 287 US 251; *Pachard vs Banton*, 264 US 140, and cases cited; *Frost and F. Trucking Co. vs. Railroad Commission*, 271 US 592; *Railroad commission vs. Inter-City Forwarding Co.*, 57 SW.2d 290; *Parlett Cooperative vs. Tidewater Lines*, 164 A. 313.

So what is a privilege to use the roads? By now it should be apparent even to the “learned” that an attempt to use the road as a place of business is a privilege. The distinction must be drawn between ...

Traveling upon and transporting one's property upon the public roads, which is our Right; and ...

Using the public roads as a place of business or a main instrumentality of business, which is a privilege.

“[The roads] ... are constructed and maintained at public expense, and no person therefore, can insist that he has, or may acquire, a vested right to their use in carrying on a commercial business.” *Ex Parte Sterling*, 53 SW.2d 294; *Barney vs. Railroad Commissioners*, 17 P.2d 82; *Stephenson vs. Binford*, supra.

“When the public highways are made the place of business the state has a right to regulate their use in the interest of safety and convenience of the public as well as the preservation of the highways.” *Barney vs. Railroad Commissioners*, supra.

“[The state's] right to regulate such use is based upon the nature of the business and the use of the highways in connection therewith.” *Ibid*.

“We know of no inherent right in one to use the highways for commercial purposes. The highways are primarily for the use of the public, and in the interest of the public, the state may prohibit or regulate ... the use of the highways for gain.” *Robertson vs. Dept. of Public Works*, supra.

There should be considerable authority on a subject as important as this deprivation of the liberty of the individual “using the roads in the ordinary course of life and business.” However, it should be noted that extensive research has not turned up one case or authority acknowledging the state's power to convert the individual's right to travel upon the public roads into a “privilege.”

Therefore, it is concluded that the Citizen does have a “Right” to travel and transport his property upon the public highways and roads and the exercise of this Right is not a “privilege.”

Definitions

In order to understand the correct application of the statute in question, we must first define the terms used in connection with this point of law. As will be shown, many terms

used today do not, in their legal context, mean what we assume they mean, thus resulting in the misapplication of statutes in the instant case.

Automobile and Motor Vehicle

There is a clear distinction between an automobile and a motor vehicle. An automobile has been defined as:

“The word ‘automobile’ connotes a pleasure vehicle designed for the transportation of persons on highways.” *American Mutual Liability Ins. Co., vs. Chaput*, 60 A.2d 118, 120; 95 NH 200.

While the distinction is made clear between the two as the courts have stated:

“A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received.” *International Motor Transit Co. vs. Seattle*, 251 P. 120.

“The term ‘motor vehicle’ is different and broader than the word ‘automobile.’” *City of Dayton vs. DeBrosse*, 23 NE.2d 647, 650; 62 Ohio App. 232.

The distinction is made very clear in Title 18 USC 31:

“Motor vehicle” means every description or other contrivance propelled or drawn by mechanical power and *used for commercial purposes* on the highways in the transportation of passengers, or passengers and property.

“Used for commercial purposes” means the carriage of persons or property for any fare, fee, rate, charge or other considerations, or directly or indirectly in connection with any business, or other undertaking intended for profit.

Clearly, an automobile is private property in use for private purposes, while a motor vehicle is a machine which *may* be used upon the highways for trade, commerce, or hire.

Travel

The term “travel” is a significant term and is defined as:

“The term ‘travel’ and ‘traveler’ are usually construed in their broad and general sense ... so as to include all those who rightfully use the highways viatically (when being reimbursed for expenses) *and* who have occasion to pass over them for the purpose of business, convenience, or pleasure.” [emphasis added] 25 Am.Jur. (1st) Highways, Sect.427, p.717.

“Traveler – One who passes from place to place, whether for pleasure, instruction, business, or health.” *Lockett vs. State*, 47 Ala. 45; *Bovier’s Law Dictionary*, 1914 ed., p. 3309.

“Travel – To journey or to pass through or over; as a country district, road, etc. To go from one place to another, whether on foot, or horseback, or in any conveyance as a train, an automobile, carriage, ship, or aircraft; Make a journey.” *Century Dictionary*, p.2034.

Therefore, the term “travel” or “traveler” refers to one who uses a conveyance to go from one place to another, and included all those who use the highways as a matter of Right.

Notice that in all these definitions the phrase “for hire” never occurs. This term “travel” or “traveler” implies, by definition, one who uses the road as a means to move from one place to another.

Therefore, one who uses the road in the ordinary course of life and business for the purpose of travel and transportation is a traveler.

Driver

The term “driver” in contradistinction to “traveler,” is defined as:

“Driver – One employed in conducting a coach, carriage, wagon, or other vehicle ...” *Bovier's Law Dictionary*, 1914 ed., p. 940.

Notice that this definition includes one who is “employed” in conducting a vehicle. It should be self-evident that this person could not be “traveling” on a journey, but is using the road as a place of business.

Operator

Today we assume that a “traveler” is a “driver,” and a “driver” is an “operator.” However, this is not the case.

“It will be observed from the language of the ordinance that a distinction is to be drawn between the terms ‘operator’ and ‘driver’; the ‘operator’ of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the ‘driver’ is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both ‘operator’ and ‘driver.’” *Newbill vs. Union Indemnity Co.*, 60 SE.2d 658.

To further clarify the definition of an “operator” the court observed that this was a vehicle “for hire” and that it was in the business of carrying passengers.

This definition would seem to describe a person who is using the road as a place of business, or in other words, a person engaged in the “privilege” of using the road for gain.

This definition, then, is a further clarification of the distinction mentioned earlier, and therefore:

- Traveling upon and transporting one's property upon the public roads as a matter of Right meets the definition of a traveler.
- Using the road as a place of business as a matter of privilege meets the definition of a driver or an operator or both.

Traffic

Having defined the terms “automobile,” “motor vehicle,” “traveler,” “driver,” and “operator,” the next term to define is “traffic”:

“... Traffic thereon is to some extent destructive, therefore, the prevention of unnecessary duplication of auto transportation service will lengthen the life of the highways or reduce the cost of maintenance, the revenue derived by the state ... will also tend toward the public welfare by producing at the expense of those operating for private gain, some small part of the cost of repairing the wear ...” *Northern Pacific R.R. Co. vs. Schoenfeldt*, 213 P. 26.

Note: In the above, Justice Tolman expounded upon the key of raising revenue by taxing the “privilege” to use the public roads “at the expense of those operating for gain.”

In this case, the word “traffic” is used in conjunction with the unnecessary Auto Transportation Service, or in other words, “vehicles for hire.” The word “traffic” is another word which is to be strictly construed to the conducting of business.

“Traffic – Commerce, trade, sale or exchange of merchandise, bills, money, or the like. The passing of goods and commodities from one person to another for an equivalent in goods or money ...” *Bovier's Law Dictionary*, 1914 ed., p. 3307.

Here again, notice that this definition refers to one “conducting business.” No mention is made of one who is traveling in his automobile. This definition is of one who is engaged in the passing of a commodity or goods in exchange for money, i.e., vehicles for hire.

Furthermore, the word “traffic” and “travel” must have different meanings which the courts recognize. The difference is recognized in *Ex Parte Dickey*, supra:

“... in addition to this, cabs, hackney coaches, omnibuses, taxicabs, and hacks, when unnecessarily numerous, interfere with the ordinary traffic and travel and obstruct them.”

The court, by using both terms, signified its recognition of a distinction between the two. But, what was the distinction? We have already defined both terms, but to clear up any doubt:

“The word ‘traffic’ is manifestly used here in secondary sense, and has reference to the business of transportation rather than to its primary meaning of interchange of commodities.” *Allen vs. City of Bellingham*, 163 P. 18.

Here the Supreme Court of the State of Washington has defined the word “traffic” (in either its primary or secondary sense) in reference to business, and *not to mere travel*! So it is clear that the term “traffic” is business related and therefore, it is a “privilege.” The net results being that “traffic” is brought under the (police) power of the legislature. The term has no application to one who is not using the roads as a place of business.

License

It seems only proper to define the word “license,” as the definition of this word will be extremely important in understanding the statutes as they are properly applied:

“The permission, by competent authority to do an act which without permission, would be illegal, a trespass, or a tort.” *People vs. Henderson*, 218 NW.2d 2, 4.

“Leave to do a thing which licensor could prevent.” *Western Electric Co. vs. Pacent Reproducer Corp.*, 42 F.2d 116, 118.

In order for these two definitions to apply in this case, the state would have to take up the position that the exercise of a Constitutional Right to use the public roads in the ordinary course of life and business is illegal, a trespass, or a tort, which the state could then regulate or prevent.

This position, however, would raise magnitudinous Constitutional questions as this position would be diametrically opposed to fundamental Constitutional Law.

In the instant case, the proper definition of a “license” is:

“a permit, granted by an appropriate governmental body, generally for consideration, to a person, firm, or corporation, *to pursue some occupation or to carry on some business which is subject to regulation* under the police power.” [emphasis added] *Rosenblatt vs. California State Board of Pharmacy*, 158 P.2d 199, 203.

This definition would fall more in line with the “privilege” of carrying on business on the streets.

Most people tend to think that “licensing” is imposed by the state for the purpose of raising revenue, yet there may well be more subtle reasons contemplated; for when one seeks permission from someone to do something he invokes the jurisdiction of the “licensor” which, in this case, is the state. In essence, the licensee may well be seeking to be regulated by the “licensor.”

“A license fee is a charge made primarily for regulation, with the fee to cover costs and expenses of supervision or regulation.” *State vs. Jackson*, 60 Wisc.2d 700; 211 NW.2d 480, 487.

The fee is the price; the regulation or *control of the licensee is the real aim of the legislation.*

Are these licenses really used to fund legitimate government, or are they nothing more than a subtle introduction of police power into every facet of our lives? Have our “enforcement agencies” been diverted from crime prevention, perhaps through no fault of their own, instead now busying themselves as they “check” our papers to see that all are properly endorsed by the state?

How much longer will it be before we are forced to get a license for our lawn mowers, or before our wives will need a license for her “blender” or “mixer?” They all have motors on them and the state can always use the revenue.

Police Power

The confusion of the police power with the power of taxation usually arises in cases where the police power has affixed a penalty to a certain act, or where it requires licenses to be obtained and a certain sum be paid *for certain occupations*. The power used in the instant case cannot, however, be the power of taxation since an attempt to levy a tax upon a Right would be open to Constitutional objection.

Each law relating to the use of police power must ask three questions:

1. Is there threatened danger?
2. Does a regulation involve a Constitutional Right?
3. Is this regulation reasonable? *People vs. Smith*, 108 Am.St.Rep. 715; *Bovier's Law Dictionary*, 1914 ed., under "Police Power."

When applying these three questions to the statute in question, some very important issues emerge.

First, "is there a threatened danger" in the individual using his automobile on the public highways, in the ordinary course of life and business?

The answer is No! There is nothing inherently dangerous in the use of an automobile when it is carefully managed. Their guidance, speed, and noise are subject to a quick and easy control, under a competent and considerate manager, it is as harmless on the road as a horse and buggy.

It is the manner of managing the automobile, and that alone, which threatens the safety of the public. The ability to stop quickly and to respond quickly to guidance would seem to make the automobile one of the least dangerous conveyances. (See *Yale Law Journal*, December 1905.)

"The automobile is not inherently dangerous." *Cohens vs. Meadow*, 89 SE 876; *Blair vs. Broadmore*, 93 SE 532.

To deprive all persons of the Right to use the road in the ordinary course of life and business, because one might, in the future, become dangerous, would be a deprivation not only of the Right to travel, but also the Right to due process.

Next, does the regulation involve a Constitutional Right?

This question has already been addressed and answered in this brief, and need not be reinforced other than to remind this Court that this Citizen does have the Right to travel upon the public highway by automobile in the ordinary course of life and business. It can therefore be concluded that this regulation does involve a Constitutional Right.

The third question is the most important in this case. "Is this regulation reasonable?"

The answer is No! It will be shown below that this licensing statute is oppressive and could be effectively administered by less oppressive means.

Although the Fourteenth Amendment does not interfere with the proper exercise of the police power, in accordance with the general principle that the power must be exercised so as not to invade unreasonably the rights guaranteed by the United States Constitution, it is

established beyond question that every state power, including the police power, is limited by the Fourteenth Amendment (and others) and by the inhibitions there imposed.

Moreover, the ultimate test of the propriety of police power regulations must be found in the Fourteenth Amendment, since it operates to limit the field of the police power to the extent of preventing the enforcement of statutes in denial of Rights that the Amendment protects. (See *Parks vs. State*, 64 NE 682.)

"With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority." *Connolly vs. Union Sewer Pipe Co.*, 184 US 540; *Lafarier vs. Grand Trunk R.R. Co.*, 24 A. 848; *O'Neil vs. Providence Amusement Co.*, 108 A. 887.

"The police power of the state must be exercised *in subordination* to the provisions of the U.S. Constitution." [emphasis added] *Panhandle Eastern Pipeline Co. vs. State Highway Commission*, 294 US 613; *Bacahanan vs. Wanley*, 245 US 60.

"It is well settled that the Constitutional Rights protected from invasion by the police power, include Rights safeguarded both by express and implied prohibitions in the Constitutions." *Tiche vs. Osborne*, 131 A. 60.

"As a rule, fundamental limitations of regulations under the police power are found in the spirit of the Constitutions, not in the letter, although they are just as efficient as if expressed in the clearest language." *Mehlos vs. Milwaukee*, 146 NW 882.

As it applies in the instant case, the language of the Fifth Amendment is clear:

No person shall be ... deprived of Life, Liberty, or Property without due process of law.

As has been shown, the courts at all levels have firmly established an absolute Right to travel.

In the instant case, the state, by applying commercial statutes to all entities, natural and artificial persons alike, has deprived this free and natural person of the Right of Liberty, without cause and without due process of law.

Due Process

"The essential elements of due process of law are ... Notice and The Opportunity to defend." *Simon vs. Craft*, 182 US 427.

Yet, not one individual has been given notice of the loss of his/her Right, let alone before signing the license (contract). Nor was the Citizen given any opportunity to defend against the loss of his/her right to travel, by automobile, on the highways, in the ordinary course of life and business. This amounts to an arbitrary deprivation of Liberty.

"There should be no arbitrary deprivation of Life or Liberty ..." *Barbour vs. Connolly*, 113 US 27, 31; *Yick Wo vs. Hopkins*, 118 US 356.

and ...

"The right to travel is part of the Liberty of which a citizen cannot be deprived without due process of law under the Fifth Amendment. This Right was emerging as early as the Magna Carta." *Kent vs. Dulles*, 357 US 116 (1958).

The focal point of this question of police power and due process must balance upon the point of making the public highways a safe place for the public to travel. If a man travels in a manner that creates actual damage, an action would lie (civilly) for recovery of damages. The state could then also proceed against the individual to deprive him of his Right to use the public highways, *for cause*. This process would fulfill the due process requirements of the Fifth Amendment while at the same time insuring that Rights guaranteed by the U.S. Constitution and the state constitutions would be protected.

But unless or until harm or damage (a crime) is committed, there is no cause for interference in the private affairs or actions of a Citizen.

One of the most famous and perhaps the most quoted definitions of due process of law, is that of Daniel Webster in his Dartmouth College Case (4 Wheat 518), in which he declared that by due process is meant “a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial.” (See also *State vs. Strasburg*, 110 P. 1020; *Dennis vs. Moses*, 52 P. 333.)

Somewhat similar is the statement that is a rule as old as the law that “no one shall be personally bound (restricted) until he has had his day in court,” by which is meant, until he has been duly cited to appear and has been afforded an opportunity to be heard. Judgment without such citation and opportunity lacks all the attributes of a judicial determination; it is judicial usurpation and it is oppressive and can never be upheld where it is fairly administered. (12 Am.Jur. [1st] Const. Law, Sect.573, p.269.)

Note: This sounds like the process used to deprive one of the “privilege” of operating a motor vehicle “for hire.” It should be kept in mind, however, that we are discussing the arbitrary deprivation of the Right to use the road that all citizens have “in common.”

The futility of the state's position can be most easily observed in the 1959 Washington Attorney General's opinion on a similar issue:

“The distinction between the Right of the Citizen to use the public highways for private, rather than commercial purposes is recognized ... “

and ...

“Under its power to regulate private uses of our highways, our legislature has required that motor vehicle operators be licensed (I.C. 49-307). Undoubtedly, the primary purpose of this requirement is to insure, as far as possible, that all motor vehicle operators will be competent and qualified, thereby reducing the potential hazard or risk of harm, to which other users of the highways might otherwise be subject. But once having complied with this regulatory provision, by obtaining the required license, a motorist enjoys the privilege of travelling freely upon the highways ...” Washington A.G.O. 59-60 No. 88, p. 11.

This alarming opinion appears to be saying that every person using an automobile as a matter of Right, must give up the Right and convert the Right into a privilege. This is accomplished under the guise of regulation. This statement is indicative of the insensitivity, even the ignorance, of the government to the limits placed upon governments by and through the several constitutions.

This legal theory may have been able to stand in 1959; however, as of 1966, in the United States Supreme Court decision in *Miranda*, even this weak defense of the state's actions must fall.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda vs. Arizona*, 384 US 436, 491.

Thus the legislature does not have the power to abrogate the Citizen's Right to travel upon the public roads, by passing legislation forcing the citizen to waive his Right and convert that Right into a privilege. Furthermore, we have previously established that this "privilege" has been defined as applying only to those who are "conducting business in the streets" or "operating for-hire vehicles."

The legislature has attempted, by legislative fiat, to deprive the Citizen of his Right to use the roads in the ordinary course of life and business, without affording the Citizen the safeguard of "due process of law." This has been accomplished under supposed powers of regulation.

Regulation

"In addition to the requirement that regulations governing the use of the highways must not be violative of constitutional guarantees, the prime essentials of such regulation are reasonableness, impartiality, and definiteness or certainty." 25 Am.Jur. (1st) Highways, Sect.260.

and ...

"Moreover, a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance of permission." *Davis vs. Massachusetts*, 167 US 43; *Pachard vs. Banton*, *supra*.

One can say for certain that these regulations are impartial since they are being applied to all, even though they are clearly beyond the limits of the legislative powers. However, we must consider whether such regulations are reasonable and non-violative of constitutional guarantees.

First, let us consider the reasonableness of this statute requiring all persons to be licensed (presuming that we are applying this statute to all persons using the public roads). In determining the reasonableness of the statute we need only ask two questions:

1. Does the statute accomplish its stated goal?

The answer is No!

The attempted explanation for this regulation "to insure the safety of the public by insuring, as much as possible, that all are competent and qualified."

However, one can keep his license without retesting, from the time he/she is first licensed until the day he/she dies, without regard to the competency of the person, by merely renewing said license before it expires. It is therefore possible to completely skirt the goal of this attempted regulation, thus proving that this regulation does not accomplish its goal.

Furthermore, by testing and licensing, the state gives the appearance of underwriting the competence of the licensees, and could therefore be held liable for failures, accidents, etc. caused by licensees.

2. Is the statute reasonable?

The answer is No!

This statute cannot be determined to be reasonable since it requires the Citizen to give up his or her natural Right to travel unrestricted in order to accept the privilege. The purported goal of this statute could be met by much less oppressive regulations, i.e., competency tests and certificates of competency before using an automobile upon the public roads. (This is exactly the situation in the aviation sector.)

But isn't this what we have now?

The answer is No! The real purpose of this license is much more insidious. When one signs the license, he/she gives up his/her Constitutional Right to travel in order to accept and exercise a privilege. After signing the license, a quasi-contract, the Citizen has to give the state his/her consent to be prosecuted for constructive crimes and quasi-criminal actions where there is no harm done and no damaged property.

These prosecutions take place without affording the Citizen their Constitutional Rights and guarantees, such as, the Right to a trial by jury of twelve persons and the Right to counsel, as well as the normal safeguards such as proof of intent and a corpus delicti and a grand jury indictment. These unconstitutional prosecutions take place because the Citizen is exercising a privilege and has given his/her "implied consent" to legislative enactments designed to control interstate commerce, a regulatable enterprise under the police power of the state.

We must now conclude that the Citizen is forced to give up Constitutional guarantees of "Right" in order to exercise his state "privilege" to travel upon the public highways in the ordinary course of life and business.

Surrender of Rights

A Citizen cannot be forced to give up his/her Rights in the name of regulation.

"... the only limitations found restricting the right of the state to condition the use of the public highways as a means of vehicular transportation *for compensation* are (1) that the state must not exact of those it permits to use the highways for hauling for gain that they surrender any of their inherent U.S. Constitutional Rights as a condition precedent to obtaining permission for such use ..." [emphasis added] *Riley vs. Laeson*, 142 So. 619; *Stephenson vs. Binford*, supra.

If one cannot be placed in a position of being forced to surrender Rights in order to exercise a privilege, how much more must this maxim of law, then, apply when one is simply exercising (putting into use) a Right?

"To be that statute which would deprive a Citizen of the rights of person or property, without a regular trial, according to the course and usage of the common law, would not be the law of the land." *Hoke vs. Henderson*, 15 NC 15.

and ...

"We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another." *Simons vs. United States*, 390 US 389.

Since the state requires that one give up Rights in order to exercise the privilege of driving, the regulation cannot stand under the police power, due process, or regulation, but must be exposed as a statute which is oppressive and one which has been misapplied to deprive the Citizen of Rights guaranteed by the United States Constitution and the state constitutions.

Taxing Power

"Any claim that this statute is a taxing statute would be immediately open to severe Constitutional objections. If it could be said that the state had the power to tax a Right, this would enable the state to destroy Rights guaranteed by the constitution through the use of oppressive taxation. The question herein, is one of the state taxing the Right to travel by the ordinary modes of the day, and whether this is a legislative object of the state taxation.

The views advanced herein are neither novel nor unsupported by authority. The question of taxing power of the states has been repeatedly considered by the Supreme Court. The Right of the state to impede or embarrass the Constitutional operation of the U.S. Government or the Rights which the Citizen holds under it, has been uniformly denied." *McCulloch vs. Maryland*, 4 Wheat 316.

The power to tax is the power to destroy, and if the state is given the power to destroy Rights through taxation, the framers of the Constitution wrote that document in vain.

"... It may be said that a tax of one dollar for passing through the state cannot sensibly affect any function of government or deprive a Citizen of any valuable Right. But if a state can tax ... a passenger of one dollar, it can tax him a thousand dollars." *Crandall vs. Nevada*, 6 Wall 35, 46.

and ...

"If the Right of passing through a state by a Citizen of the United States is one guaranteed by the Constitution, it must be sacred from state taxation." *Ibid.*, p.47.

Therefore, the Right of travel must be kept sacred from all forms of state taxation and if this argument is used by the state as a defense of the enforcement of this statute, then this argument also must fail.

Conversion of a Right to a Crime

As previously demonstrated, the Citizen has the Right to travel and to transport his property upon the public highways in the ordinary course of life and business. However, if one exercises this Right to travel (without first giving up the Right and converting that Right into a privilege) the Citizen is by statute, guilty of a crime. This amounts to converting the exercise of a Constitutional Right into a crime.

Recall the *Miller vs. U.S.* and *Snerer vs. Cullen* quotes from page 178, and,

"The state cannot diminish Rights of the people." *Hurtado vs. California*, 110 US 516.

and ...

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” *Miranda*, supra.

Indeed, the very purpose for creating the state under the limitations of the constitution was to protect the rights of the people from intrusion, particularly by the forces of government.

So we can see that any attempt by the legislature to make the act of using the public highways as a matter of Right into a crime, is void upon its face.

Any person who claims his Right to travel upon the highways, and so exercises that Right, cannot be tried for a crime of doing so. And yet, this Freeman stands before this court today to answer charges for the “crime” of exercising his Right to Liberty.

As we have already shown, the term “drive” can only apply to those who are employed in the business of transportation for hire. It has been shown that freedom includes the Citizen's Right to use the public highways in the ordinary course of life and business without license or regulation by the police powers of the state.

Conclusion

It is the duty of the court to recognize the substance of things and not the mere form.

“The courts are not bound by mere form, nor are they to be misled by mere pretenses. They are at liberty – indeed they are under a solemn duty – to look at the substance of things, whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purported to have been enacted to protect ... the public safety, has no real or substantial relation to those objects or is a palpable invasion of Rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.” *Mulger vs. Kansas*, 123 US 623, 661.

and ...

“It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon.” *Boyd vs. United States*, 116 US 616.

The courts are duty bound to recognize and stop the stealthy encroachments which have been made upon the Citizen's Right to travel and to use the roads to transport his property in the “ordinary course of life and business.” (*Hadfield*, supra.)

Further, the court must recognize that the Right to travel is part of the Liberty of which a Citizen cannot be deprived without specific cause and without the “due process of law” guaranteed in the Fifth Amendment. (*Kent*, supra.)

The history of this “invasion” of the Citizen's Right to use the public highways shows clearly that the legislature simply found a heretofore untapped source of revenue, got greedy, and attempted to enforce a statute in an unconstitutional manner upon those free and natural individuals who have a Right to travel upon the highways. This was not attempted in an outright action, but in a slow, meticulous, calculated encroachment upon the Citizen's Right to travel.

This position must be accepted unless the prosecutor can show his authority for the position that the “use of the road in the ordinary course of life and business” is a privilege.

To rule in any other manner, without clear authority for an adverse ruling, will infringe upon fundamental and basic concepts of Constitutional law. This position, that a Right cannot be regulated under any guise, must be accepted without concern for the monetary loss of the state.

“Disobedience or evasion of a Constitutional Mandate cannot be tolerated, even though such disobedience may, at least temporarily, promote in some respects the best interests of the public.” *Slote vs. Examination*, 112 ALR 660.

and ...

“Economic necessity cannot justify a disregard of Constitutional guarantee.” *Riley vs. Carter*, 79 ALR 1018; 16 Am.Jur. (2nd), Const. Law, Sect.81.

and ...

“Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them.” *Watson vs. Memphis*, 375 US 526.

Therefore, the Court's decision in the instant case must be made without the issue of cost to the state being taken into consideration, as that issue is irrelevant. The state cannot lose money that it never had a right to demand from the “Sovereign People.”

Finally, we come to the issue of “public policy.” It could be argued that the “licensing scheme” of all persons is a matter of “public policy.” However, if this argument is used, it too must fail, as:

“No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution.” 16 Am.Jur. (2nd), Const. Law, Sect.70.

So even “public policy” cannot abrogate this Citizen's Right to travel and to use the public highways in the ordinary course of life and business.

Therefore, it must be concluded that:

“We have repeatedly held that the legislature may regulate the use of the highways for carrying on business for private gain and that such regulation is a valid exercise of the police power.” *Northern Pacific R.R. Co.*, supra.

and ...

“The act in question is a valid regulation, and as such is binding upon all who use the highway for the purpose of private gain.” *Ibid*.

Any other construction of this statute would render it unconstitutional as applied to this Citizen or any Citizen. The Accused therefore moves this court to dismiss the charge against him, with prejudice.

This ends the legal brief.

In addition:

Since no notice is given to people applying for driver's (or other) licenses that they have a perfect right to use the roads without any permission, and that they surrender valuable rights by taking on the regulation system of licensure, the state has committed a massive construction fraud. This occurs when any person is told that they must have a license in order to use the public roads and highways.

The license, being a legal contract under which the state is empowered with policing powers is only valid when the licensee takes on the burdens of the contract and bargains away his or her rights knowingly, intentionally, and voluntarily.

Few know that the driver's license is a contract without which the police are powerless to regulate the people's actions or activities.

Few if any licensees intentionally surrender valuable rights. They are told that they must have the license. As we have seen, this is not the case.

No one in their right mind voluntarily surrenders complete liberty and accepts in its place a set of regulations.

“The people never give up their liberties but under some delusion.” Edmund Burke, 1784.

A New Identity

There are many legitimate reasons why people might want to create a new or second identity. Many people do it for security or aesthetic reasons. The government helps people in the *witness protection program* or foreign intelligence defector's to obtain a new identity to protect them from other people who might seek revenge. Many immigrants change their names when they discover that the people of their new home can't pronounce their name or that the pronunciation sounds bad. For example, Iva Oduré had a wonderful name in her homeland, but after some time in America she decided to change her first name to Nancy. And, of course, we all know those famous movie stars, such as, Marion Morrison, Archibald Leach and Issur Danielovich never use their real names on stage (these people are better known as John Wayne, Cary Grant and Kirk Douglas). And, as you might expect, there are also those who change their name hoping to hide their past or because they want to avoid getting caught by the police.

Creating a new identity is much more than simply changing your name. It is the process of creating a new *legal* person, including official documents, banking, credit and profession. Often the process even includes creating a new family and life history. This is a complex task that, for most individuals, requires a lot of research and time. While the government may be able to research and inject a new identity and life history into the system, few individuals have that ability. The complexity of the task can also be related to your reason for wanting a new identity. For example a fake ID might get an under-aged teen drinks at a bar, but if you expect it to pass muster at a traffic stop, you had better make sure it was issued by the State ... and it is a whole lot easier to order a fake ID from some theatrical props company than to get the State to issue you new documents under a different name.

Regardless of your reason for creating a new identity, it is best done slowly and carefully before a real need arises. This is best done by creating that new identity and then developing a low-profile life over several years. This section gives you some ideas about obtaining various official documents that you can use to obtain other documents that help you create a new and real identity that will pass muster with any official agency.

Fake IDs are Dangerous

Too many people assume that creating a new identity involves obtaining and using fake IDs. During our late teens, many of us were successful at passing fake IDs off at a liquor store for a case of beer. Perhaps it is because of our previous experience that we limit our thinking to fake IDs and thus avoid involving ourselves in a second identity because we now understand some of the inherent dangers associated with a fake ID. While a high-quality fake ID, such as some available for theatrical props, may have occasionally fooled a traffic cop or

bank teller in the 1960s, it will get a ticket to jail today when it fails an online instant verification check.

Certainly high-quality fake IDs can help you open a postal drop account which may serve useful for preserving anonymity while providing a mailing address for your soon to arrive official documents. Fake IDs have very little value beyond limited application such as this.

You would do better to avoid obtaining fake ID simply because of their high-cost and limited use.

Getting a New Birth Certificate

An official, State issued birth certificate is probably the easiest document to obtain. For a fee and with the correct information any county recorder's office or State agency will issue you a certified birth certificate. Since birth certificate documents are the easiest to get, you might also guess that they are the most abused of identification documents, as such they have only limited use. Most public officials know well that a certified birth certificate is indeed a real official document ... and they also understand that it may be documenting the birth of someone other than the person holding it.

The process is rather simple, but does take some research effort. Ideally, you need a candidate that has a clean past. This is best done by obtaining the birth certificate for a child who died very young. However, because this method is so overused, some care must be asserted so that you don't assume the identity of someone who has already been borrowed.

Begin your search at a public library that maintains a good archive of old newspapers. Most large libraries have these on microfilm. Search the obituaries for babies and young children who are the same sex as you, who died two to three years before and after your own birth. Make as through a list as possible because you are going to weed out most of them during your screening process.

Next take your list to the country recorders' office for the county in which the death occurred. You can also do death searches at you local county recorder's office if you wish to reduce the effort of the first step. All county recorders' offices allow public access to their microfilm records. At the county recorder's office you will view a copy of the death certificates for each name on your list so that you can screen out inappropriate people. Specifically, you are looking for people who match your race and who died in a State other than their State of birth. This is important because, for example, if you are black, then you probably don't want a certificate for a white baby. The State issue is important because States do not trade this kind of information. So far as the State of birth is concerned, this person is still living.

Either make a copy of the death certificate or write down all of the information from the certificate. Death certificates will always list the date of birth, the state and often the county of birth. It also gives the names of both parents and sometimes their addresses as well.

Hopefully this search will net several qualified candidates for your new identity. Next you need to obtain copies of each person's birth certificate. If you are lucky, the death certificate gave you all of the information needed.

Ordering a Birth Certificate

Many State agencies that process requests for a certified copy of a birth certificate only honor such a request when it come from the responsible person. That is, they won't send you a copy of somebody else's birth certificate. The applicant for a birth is sometimes expected to provide a photocopy of a photo identification with their signature (if available) when applying for a certified copy of a birth certificate. Check with Table 47 to see what the requirements are for each State. You should provide only the minimally required data. Additionally, the request, which may usually be in the form of a letter should provide the following information, as appropriate:

Table 46 Information Needed with a Birth Certificate Request

Item	Content
Certificate holders name	This must be the name on the birth certificate. Since you are ordering your own birth certificate, it should also be your name.
Date of birth	The date of birth recorded on the birth certificate.
Place of birth	Specifically the city and county of birth.
Mother's full maiden name	Your mother's name before she married.
Father's full name	Your father's name, if known.
Applicant's relationship to certificate holder	Since you are ordering a copy of your own birth certificate, you say something like "a copy of my birth certificate.:
Reason certificate is needed	The reason you need a new copy of your birth certificate may be as simple as "lost my original copy."Most people need a certified copy because they lost their original and some government agency, such as driver's license, passport, FCC or a special job application requires it. Be sure that your reason is reasonable.
Number of copies needed	Usually people only order one copy.
The signature of applicant	Sign your request letter with the name of the certificate holder.
Applicant's return mailing address	Be sure to provide them with the name, address, city, state and zip code for where they are to send the certificate. Often this is accomplished by providing a stamped-self-addressed-envelope.

Table 47 Address and Cost of Where to Send Your Birth/Death Certificate Request

State	Mailing Address	Cost	Comments
Alabama	Center for Health Statistics PO Box 5625 Montgomery, AL 36103-5625 (334) 206-5418	\$12.00	
Alaska	Bureau of Vital Statistics Dept of Health and Social Services P.O. Box 110675 Juneau, AK 99811-0675 (907) 465-3392	\$10.00	
Arizona	Vital Records Section Arizona Dept of Health Svcs P.O. Box 3887 Phoenix, AZ 85030-3887 (602) 255-3260	\$9.00 for Long Birth Certificate	Applicants must submit a copy of picture identification or have their request notarized and provide a family tree sketch to illustrate the family connection and possibly provide proof of family connection such as a birth certificate.
Arkansas	Arkansas Dept of Health Division of Vital Records 4815 West Markham Street, Slot 44 Little Rock, AR 72205 (800) 637-9314 toll free (501) 661-2726	\$5.00	Tight restrictions on who can have copies. A family member must complete and sign an application available from the division.
California	Office of Vital Records 304 'S' Street P.O. Box 730241 Sacramento, CA 94244-0241 Recording: (916) 445-2684	\$12.00	When requesting please include the full name, father's full name, mother's full maiden name, date of birth and city or county of birth.
Colorado	Vital Records Office Colorado Dept of Health 4300 Cherry Creek Dr South Denver, CO 80246-1530 Recording: (303) 756-4464	\$15.00	The certificate must be your own or that of an immediate family member. Include reason for request and relationship to person on certificate.
Connecticut	Health Dept Vital Records 410 Capitol Ave., 1st Floor Hartford, CT 06134 (860) 509-7897	\$5.00	
Delaware	Office of Vital Statistics Division of Public Health P.O. Box 637 Dover, DE 19903 (302) 739-4721	\$6.00	
Florida	Office of Vital Statistics, Dept of Health P.O. Box 210, 1217 Pearl Street Jacksonville, FL 32231 (904) 359-6900	\$9.00	
Georgia	Vital Records Service State Dept of Human Resources 47 Trinity Avenue SW, Room 217-H Atlanta, GA 30334 (404) 656-4750	\$10.00	Georgia law and Department Regulation limits access to these documents to the person named and parents shown on the birth records, and the authorized legal guardian or agent, grandparent, adult child, or spouse.

State	Mailing Address	Cost	Comments
Hawaii	State Dept of Health Office of Health Status Monitoring Vital Records Section P. O. Box 3378 Honolulu, HI 96801 (808) 586-4533 recording	\$10.00	
Idaho	Idaho Center for Vital Statistics 450 W. State St., 1st Floor PO Box 83720 Boise, ID 83720 (208) 334-5983	\$10.00	Idaho requires a copy of a picture ID, or copies of two forms of ID that have your signature such as a cancelled check and social security card.
Illinois	Division of Vital Records 535 West Jefferson Street Springfield, IL 62761 (217) 782-6554	\$15.00 for long birth certificate	
Indiana	Vital Records Department Indiana State Department of Health 2 North Meridian Street Indianapolis, IN 46204 (317) 233-2700	\$6.00	Include a photo-copy of personal identification with your request. Full name at birth, date and place of birth. Full name of father and mother's maiden name.
Iowa	Iowa Department of Public Health Bureau of Vital Records Lucas State Office Building, 1st Floor Des Moines, IA 50319-0075 (515) 281-4944 recording	\$10.00	
Kansas	Office of Vital Statistics 900 S W Jackson Topeka, KS 66612 (785) 296-1400	\$10.00	
Kentucky	Office of Vital Statistics 275 East Main Street Frankfort, KY 40621 (502) 564-4212	\$9.00	
Louisiana	Vital Records Registry PO Box 60630 New Orleans, LA 70160 (504) 568-5172	\$15.00	
Maine	Office of Vital Statistics Department of Human Services State House Station 11 Augusta, ME 04333-0011 (207) 287-3181	\$10.00	
Maryland	Division of Vital Records P.O. Box 68760 4201 Patterson Avenue Baltimore, MD 21215-0020 (410) 764-3069	\$8.00	
Massachusetts	Bureau of Health Statistics, Research and Evaluation Registry of Vital Records and Statistics 470 Atlantic Avenue, 2nd Floor Boston, MA 02210 (617) 753-8600	\$11.00	
Michigan	Vital Records Requests Michigan Dept of Community Health 3423 N. Martin Luther King Blvd P. O. Box 30195 Lansing, MI 48909 (517) 335-8666	\$13.00	

State	Mailing Address	Cost	Comments
Minnesota	Minnesota Department of Health Birth and Death Records 717 Delaware Street, SE P.O. Box 9441 Minneapolis, MN 55440 (612) 676-5120	\$14.00	
Mississippi	Vital Records, State Dept of Health 2423 North State Street P.O. Box 1700 Jackson, MS 39215 (601) 576-7960	\$12.00 for long certificate	
Missouri	Bureau of Vital Records Missouri Department of Health P.O. Box 570 920-930 Wildwood Jefferson City, MO 65102-0570 (573) 751-6400	\$10.00	
Montana	DPHHS/Vital Records P. O. Box 4210 111 North Sanders Helena, MT 59604-4210 (406) 444-4228	\$10.00	Copies of death and birth records that are less than thirty years old can be obtained only by the Mother, Father, Spouse or Child of the individual for whom the record is requested.
Nebraska	Nebraska Health & Human Services System Vital Statistics P.O. Box 95065 301 Centennial Mall South Lincoln, NE 68509 (402) 471-2871	\$8.00	
Nevada	Division of Health/Vital Statistics 505 East King Street, Rm #102 Carson City, NV 89710 (775) 684-4242	\$11.00	
New Hampshire	Bureau of Vital Records 6 Hazen Drive Concord, NH 03301 (603) 271-4651	\$12.00	
New Jersey	New Jersey State Department of Health and Senior Services Bureau of Vital Statistics PO Box 370 Trenton, NJ 08625-0370 (609) 292-4087	\$4.00	
New Mexico	New Mexico Vital Records and Health Statistics P.O. Box 26110, 1105 St. Francis Dr. Santa Fe, NM 87502 (505) 827-0121	\$10.00	
New York	New York State Dept of Health Vital Records Section Genealogy Unit P.O. Box 2602 Albany, NY 12220-2602 (518) 474-3077	\$15.00	
North Carolina	North Carolina Vital Records 1903 Mail Service Center Raleigh, NC 27699-1903 (919) 733-3000	\$10.00	For birth certificates full names of parents, including mother's maiden name, must be given.

State	Mailing Address	Cost	Comments
North Dakota	Division of Vital Records State Capitol 600 East Boulevard Avenue Bismarck, ND 58505 (701) 328-2360	\$7.00	
Ohio	Ohio Department of Health State Vital Statistics Unit 246 N High Street P.O. Box 15098 Columbus, OH 43215-0098 (614) 466-2531	\$7.00	
Oklahoma	Vital Records Service Oklahoma State Dept of Health 1000 Northeast Tenth, Room 117 Oklahoma City, OK 73117 (405) 271-4040	\$5.00	Birth certificates to the person or the parent of the person named.
Oregon	Oregon Vital Records PO Box 14050 Portland, OR 97293 (503) 731-4108	\$15.00	
Pennsylvania	Vital Records, State Dept of Health P.O. Box 1528 101 South Mercer Street New Castle, PA 16103 (724) 656-3100	\$4.00	Access to birth and death certificates is limited to next of kin.
Rhode Island	Rhode Island Dept of Health 3 Capitol Hill, Rm. 101 Providence, RI 02908-5097 (401) 222-2811	\$15.00	
South Carolina	Office of Vital Records 2600 Bull Street Columbia, SC 29201 (803) 898-3630	\$12.00	
South Dakota	Vital Records, Dept of Health 600 East Capitol Pierre, SD 57501-2536 (605) 773-4961	\$7.00	
Tennessee	Tennessee Vital Records Central Services Building, 1st Floor 421 5th Avenue North Nashville, TN 37247-0450 (615) 741-1763	\$10.00 for long certificate	
Texas	Bureau of Vital Statistics, Dept. of Health P. O. Box 12040 Austin, TX 78711-2040 (512) 458-7111	\$11.00	Requests for certificates of births that occurred within the last 50 years must also include the full names of the subject's mother and father (including the mother's maiden name), your reason for obtaining the certificate, and your relationship to the subject.
Utah	Bureau of Vital Records Utah Dept. of Health PO BOX 141012 Salt Lake City, UT 84114-1012 (801) 538-6380	\$12.00	

State	Mailing Address	Cost	Comments
Vermont	Vermont Department of Health Vital Records Section P.O. Box 70 108 Cherry Street Burlington, VT 05402 (802) 863-7275	\$7.00	
Virginia	Virginia Department of Health Office of Vital Records P.O. Box 1000 Richmond, VA 23218-1000 (804) 225-5000	\$8.00	
Washington	Washington Dept. of Health Center for Health Statistics P.O. Box 9709 Olympia, WA 98507-9709 (360) 236-4300 Info	\$13.00	
West Virginia	Vital Registration, Division of Health State Capitol Complex Bldg. 3, Rm. 513 Charleston, WV 25305 (304) 558-2931	\$5.00	
Wisconsin	Wisconsin Division of Health Vital Records P.O. Box 309 1 West Wilson Street, Rm 158 Madison, WI 53701 (608) 266-1371	\$12.00	Include a letter noting relationship of person on certificate to person requesting certificate; reason for requesting the certificate; full name of person on certificate; date of birth or death; city/county of event; parents name including mother's maiden name for a birth record; for death records including age at time of death or social security number is helpful but not necessary; be sure to sign the letter of request; include a self-addressed stamped envelope.
Wyoming	Vital Records Services Hathaway Building Cheyenne, WY 82002 (307) 777-7591	\$12.00	

Get a World Passport

The World Passport is not really an *officially* created or recognized document. It originated with a small private group founded in 1975 as the Association of World Citizens. They are closely affiliated with two other private political lobby groups, the World Government Organization Coalition and the World Government of World Citizens. Even though you are not likely to agree with their political agenda to “promote a one-world government through citizen advocacy,” you may still want to obtain the very well done document. The document is of sufficient quality as to fool most people, bureaucrat and many government agencies into accepting it as real. The World Passport is about \$45.00 making it affordable.

Order an application (free) from the following address:

WSC International World Information Center
2333 Kapiolani Boulevard, Suite 605
Honolulu, Island of Oahu
The Hawaiian Islands
Telephone: (808) 388-2872



About the World Passport

The World Passport is a 40-page document printed in seven (7) languages: English, French, Spanish, Russian, Arabic, Chinese and Esperanto (International Language). Each page is numbered; each page contains the World Citizen Logo as background. Four pages are reserved for affiliate identifications: diplomatic corps, organizations, firms, etc. There are twenty-five visa pages. Inserted in the back cover is a complete medical history with blood type, vaccination record, allergies, etc. There is also space for home addresses of next of kin, doctor, insurance, driving license number and national passport/identity number. The cover is blue with gold lettering.

The World Passport represents the inalienable human rights of Freedom of travel on planet earth. Therefor it is premised on the fundamental oneness or unity of the human community.

Legal Validity and Usage of the World Passport

A passport gains credibility only by its acceptance by authorities other than the issuing agent. The *de jure* (official) and *de facto* (case by case) acceptance of the World Passport is the world customary law basis for the passport. The customary law validity derives from the acceptance or recognition of the Passport by governmental entities.

Yet even if no nation-state ever recognized the validity of the Passport, the World Passport still would be valid based on Article 13, Section (1) and (2), of the Universal Declaration of Human Rights which the United Nations adopted and proclaimed December 10, 1948. Article 13 (1) of the Universal Declaration of Human Rights states: "Everyone has the right to freedom of movement and residence within the borders of each state," and Article 13 (2) states: "Everyone has the right to leave any country, including his own, and to return to his country." The World Passport also derives its world human rights law basis from documents such as the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, the International Covenant on Civil and Political Rights, as well as other regional and multilateral agreements.

Tens of thousands of people throughout the World have used their World Passport to travel, whether or not a consular official at an embassy recognizes your World Passport does not determine the validity of the passport. The fact that the World Passport is accepted *de jure* (officially) by six (6) countries Burkina Faso, Ecuador, Mauritania, Togo, Tanzania and Zambia and has been accepted on a *de facto* (case by case) basis by 162 countries establishes the validity of the World Passport.

The World Passport differs from national passports because the World Passport identifies the bearer as a human being rather than as a national subject. Despite the fact that all Member

States of the United Nations are obligated to uphold and respect human rights (Articles 55 and 56 UN Charter) all violate them in practice by virtue of their national exclusivity. Therefore, although everyone has a right to travel anywhere in the world, there is no guarantee that the nation-state will uphold this right. Thus, the World Passport is a tool to help facilitate their realization of human rights--specifically their right to travel. We focus on the right to travel because it is often the basis for the attainment of other rights, such as freedom from torture, persecution, arbitrary imprisonment, and discrimination, as well as the right to due process. It is our suggestion to all World Passport holders that first attain a visa from a country that has granted de jure (official) acceptance: Burkina Faso, Ecuador, Mauritania, Togo, Tanzania or Zambia. Obtaining a visa does not oblige you to visit that country. However, the fact that you have obtained visas from any country gives immediate credibility to the Passport in the eyes of officials from more difficult-to-enter countries such as the United States

Get an International Driver's License

The International Driver's License is technically called an International Driving Permit in most countries. The International Driving Permit is the latest rage on the InterNet among people promoting sovereignty gimmicks. Many of these groups sell these documents for upwards of \$300.00 ... which is a really big rip-off ... even bigger when they fail to tell that it is only valid in the United States if you have a foreign driver's license. Most government agencies, including foreign government sell these officially recognized documents for less \$40.00. You can get one from your auto club (for driving in countries other than the United States) for around \$10.00. To be valid in any accepted country, an International Driving Permit must be accompanied by a foreign driver's license. That is, you must also possess a valid driver's license from the country who issued the International Driving Permit ... by itself the permit is not valid. This means that if you expect to drive legally in the United States with an International Driving Permit, then you must also possess a valid driver's license from the country who issued you the International Driving Permit.

The United Nations, in the Convention on International Road Traffic on September 19, 1949, established the International Driving Permit to facilitate the worldwide travel of motorists in foreign countries where language barriers create difficulties for both motorists and police. It has been ratified by more than 160 nations.



The Permit is a booklet about the size of a passport. It is printed in nine languages: English, French, German, Spanish, Arabic, Russian, Italian, Chinese and Swedish. It explains that the motorist has a driving license from his permanent place of residence. The Permit has been so widely used for more than forty years that it is recognized everywhere in the world.

The United Nations itself does not issue driving permits. In order to implement this document for the motorist, it was decided that it should be issued by certain authorized travel associations within each nation.

Having an International Driving Permit does not authorize you to break the law or endanger public safety. The holder of an International Driving Permit is presumed to be bound under the Convention of International Road Traffic of September 19, 1949. That is, you must be qualified, and obey all the rules of the road in every country or state it is used. The International Driving Permit is not a so-called “silver bullet” against traffic citations. If you happen to get a traffic citation (and deserved it), then pay the fine and stop doing whatever it was that got you the citation. The holder of an International Driving Permit is also responsible for any property damage he or she may cause.

The International Driving Permit is recognized in 168 countries. An American-issued International Driving Permit is accorded varying degrees of recognition. Many countries honor it for up to three months, but enforcement is uneven, so a country may require an international driving permit officially, but not in practice.

International Driving Permits are intended for tourists. It is very important to realize that for an International Driving Permit to be valid in your State or country, you must have a driver's license issued from your state or country or a car registered in your name. State issued licenses supersede an International Driving Permit in the State or country where they are being used. So, if you are ever stopped, your tags and name are run through the local department of motor vehicle computers. If the name on your International Driving Permit matches that in departments records, then you are a resident and not a tourist.

However, beyond that legal technically, the International Driving Permit does carry a lot of weight with people who are unfamiliar with them. They are available through travel clubs, foreign embassies and foreign motor vehicle offices for very low cost ... usually around \$10.00.

Get a Foreign Driver's License

Other than a State issued driver's license, the next most useful documents you can have for driving in the United States are 1) a foreign driver's license, and 2) an International Driving Permit. A traffic officer is very likely to not issue a ticket if you have these two documents and you are stopped for a minor infraction. However, a major infraction will likely end you in jail since the officer, thinking you are a foreign tourist, knows that you will not attend court or pay the fine.

You can often obtain a foreign driver's license by first getting your American Passport. Secondly get the passport stamped with every free visa you can (this will take some web time visiting foreign embassies to get their mailing address – your reason for wanting visa ... tell them you are planning a world vacation and hope to visit as many countries as possible, including theirs). When you send them your passport for the visa stamp, include a copy of your current driver's license and ask them to issue you a national driver's license (for their country). Many countries won't do this, several will charge you a little, and a few will give you a license for free. (Most embassies have no policy regarding the issuance of driver's license, so getting the driver's license usually depends more on the clerk who opens your letter, rather than any policy – they do this because it encourages foreign tourist spending.)

Once, you have the foreign driver's license – go back to that embassy and ask for an International Driving Permit.

Obtaining a Second Citizenship



The multiple jurisdiction of citizenship is just one of many good reasons to obtain a second passport. Believe it not, there are many countries that actually sell people citizenship and will issue you all of the documents to which any other citizen is entitled, including a national ID card and passport. With appropriate heritage, some of these countries provide this service for a very low price, sometimes free.

These are countries where their laws provide for the government to waive the usual residency requirement in return for an applicant providing some economic benefits to the country. The economic benefit usually entails investment in some government approved projects or a specific payment to the government.

The following list is the most common of these countries:

Table 48 Countries Providing Second Citizenship Programs

Country	Price
Australia	\$50,000
Austria	\$1,000,000
Belize	Check with embassy
Canada	\$50,000
<i>British West Indies (fake)</i>	An impressive looking document (as shown above) that does fool many people ... but there is no real country call the <i>British West Indies</i> .
Cape Verde	Check with embassy
Chad	\$6,000
Channel Islands	\$300,000
Columbia	Check with embassy
Commonwealth of Dominica	Check with embassy
Dominican Republic	Check with embassy
European Union	\$50,000
Grenada	Check with embassy
Ireland	Check with embassy Free in some circumstance if you are of Irish decent.
Israel	Often free to people of Jewish decent.
Japan	\$50,000
Liechtenstein	\$300,000

Country	Price
Monaco	\$300,000
New Zealand	\$50,000
Portugal	Check with embassy
São Tome	Check with embassy
Singapore	\$50,000
St. Kitts and Nevis	Check with embassy
Switzerland	\$300,000

Get a New Social Security Number

Once you have obtained new identity documents, you may (or may not) wish to apply for a social security number to go with your new identity. Simply complete an SS-5, *Application for Social Security Card*, and present it in person to the nearest Social Security Administration office. They will either assign you a social security number or they will decline your application.

Be sure to ask them for a Form SSA-L676, *Letter of Ineligibility for a SSN*, because, as explained earlier, your new identity can now obtain a new State issued driver's license.

Get a State Issued Driver's License

Once you have established new identity documents, you may want to apply for a new driver's license. Of course, since your new identity has never had a driver's license before, you will need to take a driver's test. They may also require you to provide a social security number or a Form SSA-L676, *Letter of Ineligibility for a SSN*, from the Social Security Administration.

Get a Credit Card

The quickest and easiest way to begin a new credit history is by opening a secured credit card account. Many financial institutions offer these accounts with minimal identification information and no credit check. The account consists of you depositing an amount of money into a frozen savings or security account which is held by the financial institution as security against you not paying your bill. Your credit card limit is established as a function of the surety associated with your identity and the amount of money you deposit.

You credit worthiness increases over time as you continue to pay you monthly account as agreed. Eventually they will release your deposit. As your credit worthiness improves, you want to apply for additional credit with other firms.

Based solely on what you tell them, some financial institutions will offer you an account that is good for some percentage less than your deposit. However, this kind of account has no value for establishing credit worthiness since they don't truly know you.

Never Carry Dual Identity

Carrying around ID documents in two different names is really foolish. Many law enforcement types now routinely go through the wallet or purse of those that fall into their hands. If they find two sets of ID, they'll immediately jump to the conclusion that you are a wanted felon. Avoid carrying more than one set of identity documents and protect your other identity documents with great care.

Sample Letters and Forms

This section contains sample letters and forms that you may reproduce for your personal use. We also introduce several new forms that have the look and feel similar to some familiar government forms. Notice at the bottom of many forms the term *Public Domain Form*. This is a new concept that we are introducing; please feel free to distribute these form as you wish. We branded them as *Public Domain Form* simply because we want them to be considered useful and usable by everyone.

There are also several forms that are not directly applicable to social security number issues, but that you may find useful elsewhere.

Request for IRS Statement Regarding Penalty

<your name>

<date>

<your business name>

<your business address>

<city, state, zip>

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

Dear Gentle person:

I am writing on behalf of my business. Would you please send a policy letter explaining the policy of waiver of penalty provided by 26 USC §6724(a) pursuant to circumstances as provided for in 26 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: We are attempting to hire an individual 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. We wish to accommodate this individual's religious beliefs but do not want to incur a penalty for failure to provide the IRS with a SSN or TIN number on his W2 return.

We are 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. In addition, the employer 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" and not for any wilful 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 not on the W2 pursuant to the above IRC provisions, for reasonable cause, then we will be able to hire this individual and avoid any possible hiring discrimination based upon his religious beliefs.

Best regards,

<your name>

IRS Reply

<your name>
<your business name>
<your business address>
<city, state, zip>

<date>

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

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Request for IRS Opinion Regarding Unenumerated Employee

<your name>

<date>

<your business name>

<your business address>

<city, state, zip>

Department of the Treasury
Internal Revenue Service
P.O. Box 245 DP102G
Bensalem, PA 19020

Dear Gentle person:

I wish to hire a person who claims not to have a social security number. He claims he does not need one and does not want a social security number (for religious reasons). He is an American citizen from birth and has shown me a letter from the Social Security Administration stating, essentially, that there is no law requiring him to get a social security number. I wish to hire him because he has special skills that we need.

I have read 26 CFR 6011(b)-2 and noticed that the law covers several situations similar to this, but does not address a situation where the person does not wish to obtain or have a social security number.

I need assistance in understanding how to proceed. Obviously, I still have certain withholding and reporting requirements, but I am at a loss as to how to do it without a TIN. Can you give me some guidance in this area? Do I still withhold FICA, income tax and others? What do I write in the SSN/TIN space? ... or do I treat this person like an independent contractor?

Thank you for your time and consideration to this question.

Sincerely,

<your name>

IRS Reply**INTERNAL REVENUE SERVICE****Department of the Treasury**

**Philadelphia Customer Service Center
P.O. Box 245 D.P. 5810
Bensalem, PA 19020**

I am responding to your letter, dated October 20, 1999, concerning whether an employee can refuse to give his or her social security number to an employer.

Regulation Section 31.6011(b) provides that all employees who have been issued an account number by the Social Security Administration (SSA) must show the card to his or her employer. If the card issued is not available, employees must advise the employer of the name and number on the card. However, care must be exercised that the employer is correctly advised of the name and number.

Employees who do not have an account number but have a receipt issued by the SSA acknowledging that an application for an account number has been received, must show the receipt to the employer. Employees who are unable to furnish a number or receipt to the employer must provide a statement containing the information as found on Form SS-5, Application for Social Security Number, including a statement as to whether an application has previously been filed. The furnishing of a statement by the employee to the employer, however, does not relieve the employee of the obligation to make an application on Form SS-5 and file it with SSA. Provisions of the regulation also require that the application for an account number be filed within seven days of employment.

Employers must advise prospective employees of the requirement to have or apply for an account number. If employees fail or refuse to provide an account number, employers must attach a signed statement to their Form 941, Employer's Quarterly Federal Tax Return, outlining the facts pertinent to the employees. You should withhold all applicable taxes, FICA, Medicare, income tax withholding, etc. If an SS-5 has been secured, it should be attached to the Form 941.

The general rule is that an individual is an independent contractor if you, the payer, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result. You may be interested in obtaining Publication 15-A, Employer's supplemental Tax Guide, by calling our toll-free number, 1-800-829-3676. Please refer to page 4, Employee or Independent Contractor, for additional information.

Request SSA Opinion About Requirement of SSN for Employment

<your name>

<date>

<your business address>

<city, state, zip>

Social Security Administration
Office of Public Inquires
6401 Security Blvd.
Room 4-C-5 Annex
Baltimore, MD 21235

Dear Gentle person:

I have not obtained a social security number because of my beliefs and convictions. I do not wish to obtain a number.

My employer is threatening to fire me if I do not provide him with a social security number. He has stated that I am required to obtain a SSN under 26 USC 6109. However, my reading of that section only requires me to use “the social security account number issued to an individual ...”, I read nothing in that section that requires me to obtain a SSN.

Can you please provide me a copy of your policy letter that covers the following issues:

- 1) that shows the law that specifically mandates an employer to fire employees who do not have social security numbers.
- 2) the specific law(s) that require an individual to obtain and have a social security number for the purpose of employment.
- 3) what an employer should do when hiring an individual who does not have a SSN.

Sincerely,

<your name>

SSA Reply



May 14, 1998

This is in response to your letter of February 25.

We can understand your concern about getting a Social Security number before you can begin work. The Internal Revenue Code (26 U.S.C. 6109(a)) and applicable regulations (26 CFR 301.6109-1(d)) require an individual to get and use 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 information about payments to the individual. There are penalties for failure to do so (see 26 U.S.C. 6676(a) and 26 CFR 301.6676-1).

Section 205(c)(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. Workers who do not wish to disclose their Social Security for any reason should get in touch with the Internal Revenue Service office in their area to explain their position and receive advice on how to proceed.

We do not have the authority to require an employer to provide or deny employment or services to anyone who refuses to disclose his or her number. This is a matter between the individual and the employer.

We hope this information is helpful.

Asking SSA for Which Law Requires a Social Security Number

<your name>

<date>

<your business address>

<city, state, zip>

Social Security Administration
Office of Public Inquires
6401 Security Blvd.
Room 4-C-5 Annex
Baltimore, MD 21235

Dear Gentle person:

Please tell me which laws require a person to obtain or have a social security number.

Best Regards,

<your name>

SSA Reply



April 18, 1997

This is in response to your letter concerning the requirement and use of the Social Security number (SSN).

The Social Security Act does not require a person to have a Social Security number (SSN) to live and work in the United States, nor does it require an SSN simply for the purpose of having one. However, if someone works without an SSN, we cannot properly credit the earnings for the work performed.

Other laws require people to have and use SSNs for specific purposes. For example, the Internal Revenue Code (26 U.S.C. 6109 (a)) and applicable regulations (26 CFR 301.6109-1(d)) require an individual to get and use an SSN on tax documents and to furnish the number to any other person or institution (such as an employer or a bank) that is required to provide the Internal Revenue Service (IRS) information about payments to the individual. There are penalties for failure to do so. The IRS also requires employers to report SSNs with employees' earnings.

The requirements for including the SSN as the taxpayer identification number on individual tax returns and on tax reports made by employers, banks, and other financial institutions are set by law or regulations of the Department of the Treasury. Anyone who has questions or objections to providing an SSN for these purposes should contact the nearest Internal Revenue Service office.

Sincerely,



Charles H. Mullen
Associate Commissioner
Office of Public Inquiries

Reply to Employer's Request to Social Security Number

<your name>
<your address>
<city, state, zip>

<date>

<recipient's name>
<recipient's address>
<recipient's city, state>

Re: Request for Social Security Number

Greetings:

Thank you for your recent inquiry.

The law requires you, as the payor, to request disclosure of my taxpayer identification number. If I refuse, the law requires you to make a second request stating that disclosure is required by law (even though it's not). If I refuse a second time, you are required by law to submit the requested forms to the IRS, together with an affidavit so stating that you have complied with these requirements. There is no penalty and there is no 31% withholding rate until disclosure is made. Please review 26 USC 6109 and 26 CFR Part 301.6109-1(c), relating to identifying numbers. The former \$5 penalty was repealed in 1989 because it was never enforced.

I am prepared to sign a release agreement if you still believe there is some liability to your company.

I hope you'll accept my apologies for any confusion caused because of this misunderstanding.

Best regards,

<sender>

Reply to Request for IRS W-4

<your name>

<date>

<your address>

<city, state, zip>

<recipient's company>

Attn: <attorney for company>

<recipient's address>

<recipient's city, state, zip>

Re: Withholding Agreement

Dear Mr. <attorney>:

Thank you for taking a moment to review this correspondence. Mr. <client> has asked me to assist him in renegotiating his withholding agreement with <company>.

Part 31 of Section 3402(p)-1 of the Code of Federal Regulations allows taxpayers to terminate withholding agreements upon notice, please see the attached facsimile of this regulation.

Please attach Mr. <client>'s statement made pursuant to this regulation to Form W-4 which he had previously filed with your company and terminate withholding on the date specified. Mr. <client> has also indicated to me that he is willing to post an indemnity bond and sign a release agreement, at his own expense, if you perceive some liability for complying with this federal regulation.

Best regards,

<attorney for employee>

Attachment to Reply

Attachment

Code of Federal Regulations

Revised as of April 1, 1998

CITE: 26CFR31.3402(p)-1

Title 26--Internal Revenue

Chapter I--Internal Revenue Service Department Of The Treasury--

Part 31--Employment Taxes And Collection Of Income Tax At Source--

Subpart E--Collection of Income Tax at Source

Sec. 31.3402(p)-1 Voluntary withholding agreements.

(a) In general. An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970. An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee. The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See Sec. 31.3405(c)-1, Q and A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

(b) Form and duration of agreement.

(1) (i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding.

(ii) In the case of an employee who desires to enter into an agreement under section 3402(p) with his employer, if the employee performs services (in addition to those to be the subject of the agreement) the remuneration for which is subject to mandatory income tax withholding by such employer, or if the employee wishes to specify that the agreement terminate on a specific date, the employee shall furnish the employer with a request for withholding which shall be signed by the employee, and shall contain--

(a) The name, address, and social security number of the employee making the request,

(b) The name and address of the employer,

(c) A statement that the employee desires withholding of Federal income tax, and applicable, of qualified State individual income tax (see paragraph (d)(3)(I) of Sec. 301.6361-1 of this chapter (Regulations on Procedures and Administration)), and

(d) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement.

If accepted by the employer as provided in subdivision (iii) of this subparagraph, the request shall be attached to, and constitute part of, the employee's Form W-4. An employee who furnishes his employer a request for withholding under this subdivision shall also furnish such employer with Form W-4 if such employee does not already have a Form W-4 in effect with such employer.

(iii) No request for withholding under section 3402(p) shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made.

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

(86 Stat. 944, 26 U.S.C. 6364; 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7096, 36 FR 5216, Mar. 18, 1971, as amended by T.D. 7577, 43 FR 59359, Dec. 20, 1978; T.D. 8619, 60 FR 49215, Sept. 22, 1995]

Terminating a Withholding Agreement

If you want to address the issue of terminating your withholding agreement with the company for which you now work, this is the type of correspondence you can make to best resolve the matter.

These letters work best when sent by a third party, such as an attorney. Here are two companies who can help you with these issues for a reasonable price.

Due Process, Washington
P. O. Box 248
Colbert, Washington 99005
(888) 218-7764
mail@dueprocess.org

Dr. Eduardo M. Rivera
PO Box 1387
Lomita, Calif., 90717
edriversa@edriversa.com

You shouldn't need to send the bond and release agreement forms, but they are included so you will have an idea of how they appear, should the attorney prepare them for you.

Termination Letter

<employee's name> <date>
Social Security No. 000-00-0000
<employee's address>
<employee's city, state, zip>
<employee's phone number>

<recipient's company>
Attn: <attorney for company>
<recipient's address>
<recipient's city, state, zip>

Re: Withholding Agreement

Greetings:

This statement is made pursuant to Part 31, Section 3402(p)-1 of the Code of Federal Regulations, paragraph b. Please terminate our withholding agreement on the last day of the last pay period in <month> of <year> and attach this statement to Form W-4 which I have previously filed with your company. This change shall terminate on December 31st, <year>. I do not wish to have any withholding from my paycheck between the first pay period in [month] and December 31, <year>.

Best regards,

<employee's name>

Release Agreement

Release Agreement

For valuable consideration given, the undersigned hereby agree to the following:

1. releasor agrees to hold harmless, and release releasee, its heirs, personal representatives, successors, and assigns, jointly and severally, from all liability resulting from not withholding state and federal income taxes from releasor.

These items include the following taxes, but are not limited to: wage, social security, Medicare, FUTA, supplemental unemployment compensation benefits, and third-party payments of sick pay, state and federal unemployment tax.

2. releasor agrees to incur all liability resulting from releasee, its heirs, personal representatives, successors, and assigns, jointly and severally, not withholding state and federal income taxes from releasor.

These items include the following taxes, but are not limited to: wage, social security, Medicare, FUTA, supplemental unemployment compensation benefits, and third-party payments of sick pay, state and federal unemployment tax.

3. If any provision of this agreement shall be deemed to be null and void, it shall not affect any other provision and reasonable opportunity shall be made by the parties to amend its terms to bring this agreement into conformity with the original intent of the bond and this agreement.

4. The term of this agreement shall not exceed any length of time beyond the last day for the year in which this agreement becomes effective.

5. releasor shall execute a bond for \$ _____ as security for this agreement within thirty days of the date when this agreement becomes effective.

Releasor

Releasee

Be it Remembered, that on this _____ day of _____, _____, before me, the subscriber, a Notary Public in and for the said County and State personally came _____ and _____ in the forgoing agreement and acknowledged the signing thereof to be their voluntary act and deed.

In Testimony Thereof, I have hereunto subscribed my name and affixed my notarial seal on the day and year last aforesaid.

My Commission Expires: _____

Notary Public

State of _____

County of _____

seal

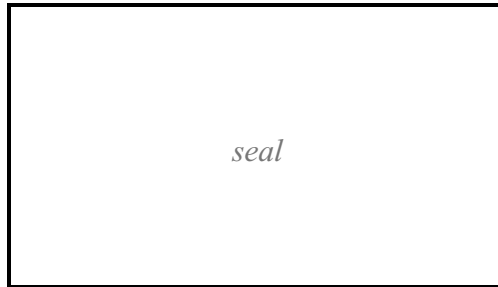
Indemnity Bond

Indemnity Bond

I, _____ *obligor* _____ as principal, and _____ *obligee* _____, as surety, is bound to _____ *obligee* _____ in the sum of \$ _____ for the payment of which I bind myself, my heirs, personal representatives, successors, and assigns, jointly and severally.

The Condition of this Bond is that _____ *obligor* _____ shall pay all costs and damages that _____ *obligee* _____ sustains in consequence of any claims arising out of the release agreement herein.

Signed and Sealed on _____ *month, day, year* _____.



By: _____
as Attorney in Fact, as Surety

Voluntary Withholding Agreement

Form **W-4T**
(Rev. November 1998)

Voluntary Withholding Agreement Termination or Withdrawal from W-4 agreement

► Voluntary Withholding Agreements—26 C.F.R. §31.3402(p)-1

Employer's name and address

Employer identification number

Submitted for:

- ☐ In lieu of W-4, *Employee's Withholding Certificate*. Employer will not make any payroll withholding. Employee is responsible for all taxes.
- ☐ Termination of previous W-4 agreement. Beginning effective on the last day of pay period in enter month of year.

Employee's Liability Release Statement:

I type or print your name here, understand that termination or withdrawal of a W-4, *Employee's Withholding Certificate*, releases the employer from any obligation to make payroll withholdings. Furthermore, I understand that I am responsible for all taxes due and I release the employer from any tax liability associated with this employee.

I certify that the foregoing statement is correct and I release the employer from any withholding obligations or claims.

Employee's signature

►

Date ►

Employee's information

Type or print employee/payee first name and initial

Last name

Social security number (write "None" if you do not have a SSN or "Declined" if you do not wish to provide a SSN)

Home address (number and street or rural route)

City or town, State and ZIP code

Sec. 31.3402(p)-1 Voluntary withholding agreements.

(a) In general. An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970.

(b) Form and duration of agreement. (1)(I) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding.

(c) A statement that the employee desires withholding of Federal income tax, and applicable, of qualified State individual income tax (see paragraph (d)(3)(I) of Sec. 301.6361-1 of this chapter (Regulations on Procedures and Administration)), and

(d) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement. If accepted by the employer as provided in subdivision (iii) of this subparagraph, the request shall be attached to, and constitute part of, the employee's Form W-4. An employee who furnishes his employer a request for withholding under this subdivision shall also furnish such employer with Form W-4 if such employee does not already have a Form W-4 in effect with such employer. (iii) No request for withholding under section 3402(p) shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made. (2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

Public Domain Form—W-4T

Reasonable Cause Affidavit by Employer

Form **P-1**

Reasonable Cause Affidavit by Payor For Not Obtaining Payee's Identifying Number

► Release From Penalty—26 U.S.C. §6724(a)

Employer's/Payor's name and address

Employer identification number

Employer/Payor statement:

I _____, being an officer of _____, hereby state that I have asked for the identifying number of the employee/payee, _____ who has declined to provide an identifying number. I am filing this affidavit in accordance with 26 USC 6724, waiver of penalty (26 USC 6724(a)) assessed under the code upon a showing of reasonable cause, and Treasury Regulation 301.6109-1(c).

I certify that the information stated here is correct and that I asked the employee/payee for a taxpayer ID number (Social security number) and that the employee/payee declined to provide such number.

Employer/Payor signature

►

Date ►**Employee/Payee information**

Type or print employee/payee first name and initial

Last name

Social security number (write "None" if you do not have a SSN or "Declined" if you do not wish to provide a SSN)

Home address (number and street or rural route)

Employee/payee statement:

City or town, State and ZIP code

I _____ have declined to provide an identifying number to my employer/payor, _____.

I certify that the information stated here is correct and the employer/payor did ask me for a taxpayer ID number (social security number) and that I declined to provide such number.

Employee/payee signature

►

Date ►

26 USC §6724, waiver of penalty (26 USC §6724(a)) assessed under the code upon a showing of reasonable cause, and Treasury Regulation 301.6109-1(c) Treasury Regulation 301.6109-1(c) provides: When the person filing the return statement, or other document does not know the SSN 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. A payor is required to request the identifying number of the payee. If after such request has been made, the payee does not furnish the payor with an identifying number, the penalty (\$50.00) will not be assessed against the payor, if it is shown that such failure is due to reasonable cause and not willful neglect. [See also 26 USC §6724, waiver of penalty (26 USC §6724(a)) assessed under the code upon a showing of reasonable cause.]

Alternate to the I.N.S. Form I-9

Form **P-2**

**Citizen's Notice
of Employment Eligibility**
► in lieu of I.N.S. Form I-9 *Employment Eligibility Verification*

Name and address of Citizen

Name and address of Notice Recipient

Citizen's statement:

I, _____ certify that I am a free Citizen of the State of _____ and am in all ways free and authorized to work unincumbered in any State of the United States by the Right of my natural citizenship.

I certify that the forgoing information stated here is true and correct.

Citizen's signature

►

Date ►

Federal law, 8 USC §1324a make it is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment, or to hire for employment in the United States an individual without complying with the requirements of subsection (b) of this section or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor, to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b) of this section.

8 CFR §274a.2 Verification of employment eligibility: (a) General. This section states the requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. For purposes of complying with section 274A(b) of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, 29 USC §1802). The Form I-9, Employment Eligibility Verification Form, has been designated by the Service as the form to be used in complying with the requirements of this section. ...

Public Domain—Privacy Form P-2

Citizen's Assertion in Lieu of I.N.S. Form I-9

Form **P-3**

Citizen's Notice of Employment Eligibility ► in lieu of I.N.S. Form I-9 *Employment Eligibility Verification*

Name and address of Citizen

Name and address of Notice Recipient

Citizen's statement:

I, _____ certify that I am a free Citizen of the State of _____ and am in all ways free and authorized to work unincumbered in any State of the United States by the Right of my natural citizenship.

I certify that the forgoing information stated here is true and correct.

Citizen's signature

►

Date ►

Legal Notice and Warning

Federal law provides that it is a crime to violate the Rights of a citizens under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages.

Federal regulation, CFR §274a.2, restricts the use I.N.S. Form I-9 to certain employers involving the use of agricultural workers; the I-9 Form has no other application and is not authorized for use with natural citizens of the United States.

Notice of Service:

I, _____ certify I that personally delivered this notice to above named recipient and address on enter date here at time.

Federal law, 8 USC §1324a makes it unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment, or to hire for employment in the United States an individual without complying with the requirements of subsection (b) of this section or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor, to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b) of this section.

8 CFR §274a.2 Verification of employment eligibility: (a) General. This section states the requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. For purposes of complying with section 274A(b) of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, 29 USC §1802). The Form I-9, Employment Eligibility Verification Form, has been designated by the Service as the form to be used in complying with the requirements of this section. ...

18 USC §242 and 42 USC §1983 provides that: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

Notice to Withhold Disclosure of SSN

Use this form anytime you need to advise someone that it is your legally protected right to withhold disclosure of a social security number and that they are prohibited from denying you any rights, privileges or service.

Form SSN	Citizen's Assertion of Legal Right to withhold disclosure of SSN
► Public Law—93-579 (Section 7)	
Name and address of Citizen	Name and address of Notice Recipient
Citizen's statement:	
I certify that the forgoing information stated here is true and correct. Citizen's signature Date ►	
Legal Notice and Warning	
Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and can also be held personally liable for civil damages. Federal Law, Section 7 of Public Law 93-579 provides that: "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 individual's refusal to disclose his social security account number." Federal courts have ruled the Privacy Act applies equally to the private sector. Warning, you are in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! The law provides that you can be held personally responsible and liable, as well as your company or agency. There is no law requiring an individual to obtain or use a social security number. Your requirement and/or demand that I provide a social security number to you is a violation of one or more of the following laws: 4 CFR 83.9; 5 USC Sec. 552a; 7 CFR 1.123; 7 USC Sec. 2204g; 14 CFR 1212.604; 17 CFR 249.501a; 19 CFR 118.11; 19 CFR 122.25; 19 CFR 24.5; 24 CFR 5.212; 28 CFR 16.53; 28 CFR 513.31; 28 CFR 700.25; 29 CFR 70a.10; 29 CFR 71.12; 31 CFR 1.32; 31 CFR 501.806; 32 CFR 270.19; 32 CFR 310.20; 32 CFR 311.5; 32 CFR 316.6; 32 CFR 317.20; 32 CFR 323.5; 32 CFR 505.2; 32 CFR 701.108; 32 CFR 806b.9; 38 CFR 1.575; 38 CFR 3.216; 38 USC Sec. 5101; 39 CFR 266.4; 45 CFR Part 801; 47 CFR 0.554; 49 CFR 10.29. You are advised to cease and desist with your demand and to seek <i>personal</i> legal counsel if you do not understand the law. Notice of Service: I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.	
42 USC Sec. 408 provides that: "Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both."	
18 USC §242 and 42 USC §1983 provides that: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC §1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."	

Color of Law Violation Warning

Form COL	Violation Warning Denial of Rights Under Color of Law
▶ Violation Warning—18 U.S.C. §242; 18 U.S.C. §245; 42 U.S.C. §1983	
Name and address of Citizen	Name and address of Notice Recipient
Citizen's statement:	
I certify that the forgoing information stated here is true and correct. Citizen's signature	
▶	Date ▶

Legal Notice and Warning

Federal law provides that it is a crime to violate the Rights of a citizen under the color-of-law. You can be arrested for this crime and you can also be held personally liable for civil damages.

Attempting to cause a person to do something by telling that person that such action is required by law, when it is not required by law, may be a felony.

18 USC §242 provides that whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States ... shall be fined under this title or imprisoned not more than one year, or both.

18 USC §245 provided that Whoever, whether or not acting under color of law, intimidates or interferes with any person from participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; [or] applying for or enjoying employment, or any perquisite thereof, by any agency of the United States; shall be fined under this title, or imprisoned not more than one year, or both.

42 USC §1983 provides that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Warning, you may be in violation of Federal Law and persisting with your demand may lead to your arrest and/or civil damages! Also understand that the law provides that you can be held personally responsible and liable, as well as your company or agency.

You are advised to cease and desist with your demand and to seek *personal* legal counsel if you do not understand the law.

Notice of Service:

I, _____ certify that I personally delivered this notice to above named recipient and address on _____ at _____.

Constructive Notice to Serve on Banks

CONSTRUCTIVE NOTICE

To: (Person being served)

Date:

Of: (Name and address of Institution)

This instrument serves notice to the person and/or business, agency, corporation or other entity that the below named Citizen does not have and/or refuses to disclose a social security number. This Right is protected under the First, Fourth, Fifth, Ninth, and Tenth amendments to United States Constitution and provisions of the Privacy Act. The Privacy Act makes it unlawful to require an individual to disclose or furnish a social security number for any purpose, unless the disclosure or furnishing of the number is specifically required by law.

The federal courts have ruled that private sector solicitors may not obtain social security numbers until they comport their solicitations to comply with disclosure requirements of the Privacy Act, including informing customers of the voluntary nature of such disclosure, the source of authority for requesting such disclosure, and possible uses to which disclosed numbers might be put. *Yeager v. Hackensack Water Co.*, 615 F.Supp. 1087 (1985).

Any person who is found violating the rights of a Citizen may be subject to the damages sustained by the individual and the costs of the action together with attorney fees. See *Doyle v. Wilson*, 529 F.Supp. 1343 (1982). Violation of 18 USC §§241, 242; 42 USC §§1983, 1985 1986 shall subject you personally and may also subject you to fines of up to \$10,000.00, and imprisonment for up to ten years, or both.

Federal regulations provide you an alternative, 26 CFR §§31.6011, 301.6109 and 31 CFR §§103.28, 103.34, 103.35, employers, banks and payers are required to ask for the social security number, but they shall not be in violation of this requirement if they have made a reasonable effort to secure such identification and are unable to secure the information.

Your policy must comply with the law and cannot violate the law or the Rights of Citizens.

Compliance with the Law and this Citizen's intent, as expressly evidenced and implied by this document, is demanded.

Noncompliance with this Notice and Demand shall result in the filing of a formal complaint with the appropriate State and federal agencies against the above named and/or representative(s).

Constructive Notice issued by:

Representing:

Witness:

Date

Notice Regarding Employment

Notice

To All Workers and Employees Regarding the Possession and Use of Social Security Numbers

There is no law requiring a person to have, obtain or use a Social Security Number to live or work in the United States. Social Security is a voluntary system and there is no legal requirement that an individual obtain or use a Social Security Number.

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; a Social Security Number is needed for that purpose. No social security benefits will be paid to you unless you obtain and use a Social Security Number.

The Internal Revenue Service (IRS) imposes no penalty on an employer if the failure to show a Social Security Number (SSN) or Taxpayer Identification Number (TIN) for an employee was due to reasonable cause and not to wilful neglect. *See 26 USC §6109(a)(3), §6721(a)(2)(B), §6721(c)(1)(B), and §6724(a).* The IRS requires an employer request (*IRC §6109(a)(3)*) the employee to provide the employer with either an SSN or TIN. However, the employee may refuse to provide an SSN or TIN. An employer is prohibited by Title VII of the Civil Rights Act from dismissing any employee for refusing to provide an SSN or TIN because of their religious belief or creed.

Section 7 of Public Law 93-579 provides that:

(a)(1) 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 individual's refusal to disclose his social security account number.

If you do not wish your employer to use your Social Security Number, you should tell them in writing, that you elect to withdraw the use of your Social Security Number and request your employer to enter the phrase **"Employee Refused to Provide"** in the space provided for a Social Security Number if and when your employer reports your wages and taxes.

18 USC Sec. 242 and 42 USC Sec. 1983 provides that:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC Sec. 1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

42 USC Sec. 408 provides that:

"Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both."

This notice must be posted in a conspicuous place where it can be read by all employees and workers.

Notice Regarding Financial Institutions

Notice

To Financial Institutions and Account Holders Regarding the Possession and Use of Social Security Numbers

There is no law requiring a person to obtain, have or use a Social Security Number to open, use or maintain a bank account or to perform bank transactions in the United States.

31 CFR 103.28 requires identification as follows:

“Before concluding any transaction with respect to which a report is required under Sec. 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the **social security or taxpayer identification number, if any**, of any person or entity on whose behalf such transaction is to be effected.” (Emphasis added)

Financial institutions may be required to ask you for proper identification and a social security number. The financial institution is required to make a record of the identity records that you provide to them. However, there is no law requiring an account holder or customer to provide a social security number. Additionally, there is no law prohibiting a financial institution from opening an account or completing a transaction because a customer lacks a social security number.

31 CFR 103.33 requires financial institutions to include a “notation in the record” that a customer lacks a social security number or certain other identification.

31 CFR 103.34 provides:

“In the event that a bank has been unable to secure . . . the required identification, it shall nevertheless not be deemed to be in violation of this section if (i) it has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him.”

18 USC Sec. 242 and 42 USC Sec. 1983 provides that:

“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;” 42 USC Sec. 1983 further provides that a violator “shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

42 USC Sec. 408 provides that:

“Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.”

This notice must be posted in a conspicuous place where it can be read by all employees and customers.

Notice Regarding Taxpayers

Notice

To All Taxpayers

The Internal Revenue Service expects you to waive your Constitutionally protected, Fifth Amendment right by signing your tax return under penalty of perjury. Your signature on a tax return legally binds you to the fact that you have fully complied with applicable tax laws. You may be severely fined or imprisoned for any mistakes that you or your tax preparer might make.

The I.R.S. may fine you \$500.00 if you refuse to waive your rights.

It is up to you to know and protect your rights. There is no law requiring you to waive your rights.

Ask yourself the following questions before signing your tax return:

1. Do I waive my Fifth Amendment protected rights when I file a tax return?
2. If I do waive my Fifth Amendment protected rights when I file a tax return, what statute requires me to so waive them?
3. If I do not waive my Fifth Amendment protected rights when I file a tax return, then why does the IRS have a *Miranda*-type of warning in the Privacy Act Notice of the 1040 Instruction Book, stating that the IRS may give any information on my return to the Department of Justice, obviously for use in criminal cases?
4. Do I truly understand what I am signing "under penalty of perjury"?

Employees who wish their employer to withhold state and federal taxes on income and for social security benefits and unemployment insurance must complete an I.R.S. Form W-4 "Employee's Withholding Allowance Certificate" and give it to their employer. 26 CFR 31.3402(p)-1 provides that the I.R.S. Form W-4 is a voluntary withholding agreement that may be terminated by either the employee or the employer at any time "by furnishing a signed written notice to the other."

If you do not wish your employer to use your Social Security Number, you should tell them in writing, that you elect to withdraw the use of your Social Security Number and request your employer to enter the phrase "*Employee Refused to Provide*" in the space provided for a Social Security Number when your employer reports your wages and taxes. The Internal Revenue Service (IRS) imposes no penalty on an employer if the failure to show a Social Security Number (SSN) or Taxpayer Identification Number (TIN) for an employee was due to reasonable cause and not to wilful neglect. See 26 USC §6109(a)(3), §6721(a)(2)(B), §6721(c)(1)(B), and §6724(a). The IRS requires an employer ask (IRC §6109(a)(3)) the employee to provide the employer with either an SSN or TIN. However, the employee may refuse to provide an SSN or TIN.

Section 7 of Public Law 93-579 provides that:

(a)(1) 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 individual's refusal to disclose his social security account number.

18 USC Sec. 242 and 42 USC Sec. 1983 provides that:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC Sec. 1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

This notice must be posted in a conspicuous place where it can be read by all Taxpayers.

Notice Regarding I.R.S. Form W-4

Notice

To All Workers, Employees and Employers Regarding the Voluntary Nature of I.R.S. Form W-4

Internal Revenue Code, Title 26, Part 31, Section 3402(p)-1 (26CFR31.3402(p)-1) provides that the I.R.S. Form W-4 is a voluntary withholding agreement between an employer and an employee. There is no law requiring a worker or employee to complete the I.R.S. Form W-4.

Employees who wish their employer to withhold state and federal taxes on income and for social security benefits and unemployment insurance must complete an I.R.S. Form W-4 "Employee's Withholding Allowance Certificate" and give it to their employer. 26 CFR 31.3402(p)-1 provides that the I.R.S. Form W-4 is a voluntary withholding agreement that may be terminated by either the employee or the employer at any time "by furnishing a signed written notice to the other."

Employees who do not complete an I.R.S. Form W-4 with their employers may **not** be eligible for unemployment benefits. Additionally they may need to pay state and federal taxes and pay for social security taxes at a higher rate. You may **not** be eligible for social security benefits when you retire or become disabled if you fail to pay social security tax.

Understand that although an employee may not wish to complete an I.R.S. Form W-4, the I.R.S. still requires an employer to request (*IRC §6109(a)(3)*) the employee's social security number (SSN) or taxpayer ID number (TIN). However, the employee may refuse to provide an SSN or TIN. An employer is prohibited by Title VII of the Civil Rights Act from dismissing any employee for refusing to provide an SSN or TIN because of their religious belief or creed "

There is no law requiring an employee to complete and submit an I.R.S. Form W-4. Additionally there is no law requiring an employer to accept an I.R.S. Form W-4. Severe penalties may be applied against any person who, under the color of law deprives another person of their rights."

18 USC Sec. 242 and 42 USC Sec. 1983 provides that:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both;" 42 USC Sec. 1983 further provides that a violator "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

This notice must be posted in a conspicuous place where it can be read by all employees and workers.

Public Law Notice

Scale by 54% for reproduction in business card size.

Notice Regarding Disclosure of Social Security Number

Section 7 of Public Law 93-579, as enacted by the Congress of the United States provides that:

(a)(1) 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 individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to -

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

18 USC Sec. 242 and 42 USC Sec. 1983 provides that:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both; 42 USC Sec. 1983 further provides that a violator shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 USC Sec. 408 provides that:

Whoever ... (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.

Served on name of person served , an agent or employee of name of business or agency was informed of the law enter date at time and is fully aware of the Congressional restriction placed upon him/her and the penalties he/she may suffer for violating the law by requiring me to provide a social security number which I may not have nor am I required to provide, or am providing under duress.

Signed: your name and signature Witnessed: name and signature

Contract with Credit Reporting Agency

Demand Notice

a Recession and Creation of a New Contract

Name and address of person making this demand (I or me)	Name and address of person, company or entity upon whom the demand is being made (you or your)
---	--

You are hereby directed to provide copies of any and all information contained within any of your files pertaining to the person making this demand. Since my name and address is particularly unique, it suffices as complete, necessary and sufficient identification (15 USC 1681h).

Be advised: I consider all information associated with me, including but not limited to, my name, accounts, addresses, phone numbers, and associated identity numbers, as well as numbers, characters and/or similar symbolic arrangements to be personal, confidential, and uniquely mine. As such, arrangement must be made with me to use or store such information. Any permission and/or authorization you think you may have had, regarding the use and/or storage of such information, is hereby revoked and a new agreement is constituted beginning this day.

You Are Entering a Binding Contract

You are hereby granted permission to use and/or store such information and/or data while you compensate me at a rate of \$500.00 per month due and payable on the first day of each month plus a 2% monthly interest rate on unpaid balance, plus \$50.00 per occurrence late charge, plus a \$100.00 billing fee. **OR:**

You are hereby advised that you do not have my permission to store information regarding me or information attributed to or about me. Therefore you are hereby ordered to remove and purge any such data or information from your filing systems.

Furthermore: Any permission, right, or privilege you think you may have had to store information or data regarding me is here by revoked.

Furthermore: You are not authorized and do not have permission to use, for any reason, a number similar to such number the Social Security Administration may have assigned to me.

Furthermore: You are hereby ordered to forward and advise me of any and all inquiries made regarding data or information which another party thinks you may have about me.

Furthermore: Since this order directs you to purge your records of any data and/or information regarding me, it is further expected, and you are hereby ordered to stop selling and/or sharing such information with any other person or organization.

Notice: Failure to notify me in writing, within forty-five (45) days of the date shown below, that you have purged from your files and storage devices all information and/or data regarding or associated with me, is regarded as your acceptance of these terms and your agreement to compensate me as indicated above.

Signed and executed this day number of month, year by your typed name

your signature here

Letters to the Banker

First Response to Account Rejection

<your name>
<your address>
<city, state, zip>

<date>

<banker's name>
<name of the bank>
<recipient's address>
<recipient's city, state>

Dear <banker's name>:

Although I had hoped to open a <kind of account> account with you yesterday, I still appreciate the time you spent discussing my unique situation.

Since it is important to me to open that account with your branch, it is necessary for me to understand clearly the reason for your rejection. Could you please explain the reason for the rejection and list each problem that I need to correct so that I can open that account.

Also please provide clarification of your bank's position for requiring a social security number. If I understand your bank's position better, then perhaps I can better accommodate that requirement.

I remain hopeful that I will soon open an account with you.

Best regards,

<sender>

Second Response – Privacy Act Notice

<your name>
<your address>
<city, state, zip>

<date>

<banker's name>
<name of the bank>
<recipient's address>
<recipient's city, state>

Dear <banker's name>:

Thank you for responding to my request to clarify your reason for declining my account application.

However, it is important to remind you and <name of bank> that there is no law requiring a person to obtain a social security number and that the Privacy Act provides that it shall be unlawful to deny to any person any right, benefit or privilege because of an individual's refusal to disclose a social security number (Section 7, Pub. Law 93-579, 5 USC 552a, 31 USC 1.32). You should know that several court decisions have applied this law to the private sector as well as government agencies.

Since it is my intent to assert my rights in this matter, I encourage you and <name of bank> to either reconsider that policy or waive the policy in my case. As you well know, federal regulation (31 USC 103.34) requires that you ask me for a social security number. However, the law does not require a person to provide that number. Furthermore, the regulation provides that you *shall not be in violation of this section if you have made a reasonable effort to secure the social security number*. Certainly you have complied with the law and have made a reasonable effort to secure a social security number (which I do not have).

Please find enclosed my signed statement (*Reasonable Cause Affidavit by Payor*) showing that you did *request* a social security number and that I declined to provide such number. This statement proves your reasonable effort and frees you from any IRS penalties due to neglect. You are also being advised, by way of the attached *Constructive Notice* and my *Citizen's Assertion of Legal Right to withhold disclosure of SSN*, of my legal rights and my intent to assert these rights in court if necessary.

I hope that you will reconsider your position and I remain hopeful that we can reach a mutually beneficial arrangement.

Best regards,

<sender>

Second Response – Compliance with Law

<your name>
<your address>
<city, state, zip>

<date>

<banker's name>
<name of the bank>
<recipient's address>
<recipient's city, state>

Dear <banker's name>:

Thank you for responding to my request to clarify your reason for declining my account application.

However, it is important to remind you and <name of bank> that there is no law requiring a person to obtain a social security number and that the Privacy Act provides that it shall be unlawful to deny to any person any right, benefit or privilege because of an individual's refusal to disclose a social security number (Section 7, Pub. Law 93-579, 5 USC 552a, 31 USC 1.32). You should know that several court decisions have applied this law to the private sector as well as government agencies.

Since it is my intent to assert my rights in this matter, I encourage you and <name of bank> to either reconsider your position in my case. As you well know, federal regulation (31 USC 103.34) requires that you ask me for a social security number. However, the law **does not require a person to provide that number** as you incorrectly assert. You should be aware that it is a felony to attempt to make people do certain things under the "color of law." I certainly hope this was simply an oversight on your part and not an attempt to intimidate me into giving you something that I do not have and am clearly not required to provide.

You should also know that the regulation provides that you *shall not be in violation of this section if you made a reasonable effort to secure the social security number*. Certainly you have complied with the law and have made a reasonable effort to secure a social security number (which I do not have).

Please find enclosed my signed statement (*Reasonable Cause Affidavit by Payor*) showing that you did *request* a social security number and that I declined to provide such number. This statement proves your reasonable effort and frees you from any IRS penalties due to neglect. You are also being advised, by way of the attached *Violation Warning, Constructive Notice* and my *Citizen's Assertion of Legal Right to withhold disclosure of SSN*, of my legal rights and my intent to assert these rights in court if necessary.

I hope that you will reconsider your position and I remain hopeful that we can reach a mutually beneficial arrangement.

Best regards,

Rescind your Social Security Number

There are several organizations who claim they can show you or help you rescind the social security number that was assigned to you by the Social Security Administration. Some of these information packets are very expensive, and they are all worthless.

Many people simply refuse to believe us when we tell them that they cannot rescind or cancel a social security number that has already been assigned. We are including this information to show you how the basic gimmick is played. This is provided for informational purposes only hoping to save you the expense of being scammed.

The Social Security Administration is not Authorized to Rescind a Number

If you follow the advice of any of these various recession programs you will likely get a letter back from the Social Security Administration that states something like:

We regret that we cannot return your application for a Social Security card to you. Because of the large volume of applications we receive, the original applications are not retained.

The Social Security Act requires the Social Security Administration to assign a Social Security number (SSN) to all qualified applicants who submit a completed Form SS-5, *Application for Social Security Card*. We are not authorized by law to rescind or cancel any number after it has been assigned.

The interesting thing about most federal law is that it does not apply to individual citizens but instead defines the operating rules for the various federal agencies. The Social Security Administration is one of those agencies. The majority of the laws and regulations written about the social security number dictate rules to the Social Security Administration about how they assign, use or react to the number issue. That is, things like the following:

- They assign a number when they receive an application ...
- They verify that a number and name match their record ...
- To receive Social Security benefits, the applicant must have a number issued ...

The Social Security Administration, like all government agencies, is highly regulated; They are not permitted to do anything without Congressional authorization ... that is what the laws and the regulations are written for. Within those laws and regulations, Congress never authorized the Social Security Administration to rescind or cancel a social security number.

Therefore the Social Security Administration cannot and will not rescind or cancel any social security number once it has been assigned to an applicant.

The Recession Scam

There are a few groups that actually charge upwards of \$300.00 for the following bogus information. There are basically three recession arguments being purposed by various groups. These arguments are as follows:

- Withdraw your Application
- Cancel Application because it is not binding
- Terminate the agreement as provide in 20 CFR 404.1905

Request for Withdrawal of Application

These people often point to the Social Security Administration Form SSA-521, *Request for Withdrawal of Application* as evidence for their program. Certainly, from the name of this form, we could be lead to believe that it is possible to withdraw the *Application for a Social Security Card*. What their sales pitch doesn't tell you, is that this form is only used to

withdraw an application for various social security benefits. According to the Social Security Administration's Social Security Handbook:

§1515. Right to withdraw application.

An application may be withdrawn if a written request for withdrawal is filed before SSA makes a determination on it and the request is filed by the claimant or a person acting on his or her behalf and the claimant is alive at the time the request is filed.

An application may also be withdrawn after SSA makes a determination on a claim if the conditions in the above paragraph are met and if (1) all individuals whose entitlement would be nullified by the withdrawal consent in writing to the withdrawal and (2) all affected individuals repay any benefits received based upon entitlement which is nullified by the withdrawal. Though a person withdraws a claim, SSA retains possession of the application form and all related papers.

After the claimant's death, an application may be withdrawn regardless of whether SSA has made a determination on it if (1) the application was for retirement benefits that would be reduced because of the claimant's age; (2) the claimant died before SSA certified his or her benefit entitlement to the Treasury Department for payment; (3) a written request for withdrawal is filed by or for the person eligible for widow(er)'s benefits based on the claimant's earnings; and (4) the conditions in (1) and (2) of the above paragraph are met.

Ordinarily, the effective date of the withdrawal is the day the request is received; however, the mailing date, as shown by the U.S. postmark, may be used if it is advantageous to the claimant. (There is no right to reconsideration or appeal based on a withdrawn claim.) A new application will have to be filed if the person later wishes to claim benefits.

If SSA approves a request to withdraw an application, the application will be considered as though it was never filed. If SSA disapproves a request for withdrawal, the application is treated as though the request was never filed.

A request to withdraw may be cancelled and the application reinstated if a written request is filed at a proper place (see §1505), and the claimant is alive at the time the request for cancellation is filed. For a cancellation request received after SSA approved the withdrawal, the request must be filed no later than 60 days after the date of the notice of approval.

To withdraw from medical insurance after a period of entitlement, see Chapter 24.

According to their method, you should take the following steps to rescind your social security number:

- Step 1. Go to the SSA Office and ask for the SS-521 *Application to withdraw from a benefit*.
- Step 2. Fill out the SS-521 form and make 2 copies and go to the SS office; turn in one copy to SSA. Ask the clerk to stamp your copy. Include a copy of the OMB-83 form.
- Step 3. Write a short letter to your Congressman telling him what you have done and ask him to write to the SSA Congressional Liaison at the Social Security Administration Office of Public Information, to ask them to expedite approval of your request to rescind you number. You also want your Congressman to be sure to tell SSA that you will need a "To Whom it May Concern Letter" that you no longer have a SSN and do not need one to conduct your day to day business activities. You will give this letter to your employer and anyone else who might challenge your not having an SSN.

We included a copy of the SS-521 and the OMB-83 for your convenience. We sincerely hope that you haven't been scammed by some of the groups who charge exorbitant prices for that kind of information.

DEPARTMENT OF HEALTH AND HUMAN SERVICE
SOCIAL SECURITY ADMINISTRATIONForm Approved
TOE 420 OMB No. 0960-0015**REQUEST FOR WITHDRAWAL OF APPLICATION**

Do not write in this space

IMPORTANT NOTICE. – This is a request to cancel your application. If it is approved, the decision we made on your application will have no legal effect, all rights attached to an application, including the rights of reconsideration, hearing, and appeal will be forfeited, and any payments we made to you or anyone else on the basis of that application will have to be returned. You must then reapply if you want a determination of your Social Security rights at any time in the future but any subsequent application may not involve the same retroactive period. This procedure is intended to be used only when your decision to file has resulted, or will result, in a disadvantage to you. Your local Social Security office will be glad to explain whether, and how, this procedure will help you.

NAME OF WAGE EARNER, SELF-EMPLOYED INDIVIDUAL, OR ELIGIBLE INDIVIDUAL

SOCIAL SECURITY NUMBER

PRINT YOUR NAME (First name, middle initial, last name)

DATE OF APPLICATION

TYPE OF BENEFIT

TYPE OF APPLICATION

I hereby request the withdrawal of my application, dated as above, for the reasons stated below. I understand that (1) this request may not be canceled after 60 days from the mailing of notice of approval; and (2) if a determination of my entitlement has been made, there must be repayment of all benefits paid on the application I want withdrawn, and all other persons whose benefits would be affected must consent to this withdrawal. I further understand that the application withdrawn and all related material will remain a part of the records of the Social Security Administration and that this withdrawal will not affect the proper crediting of wages or self-employment income to my Social Security earnings record.

Give reason for withdrawal. (if you need more space, use the reverse of this form.)

1. ☐ I intend to continue working. (I have been advised of the alternatives to withdrawal for applicants under age 65 and still wish to withdraw my application.)
2. ☐ Other (Please explain fully).

☐ Continued on reverse**SIGNATURE OF PERSON MAKING REQUEST**

Signature (First name, middle initial, last name) (Write in ink)

Date (Month, day, year)

**SIGN
HERE** ➔

Telephone Number (include area code)

Mailing Address (Number and street, Apt No., P. O. Box, or Rural Route)

City and State

ZIP Code

Enter Name of Country (if any) in which you now live

Witnesses are required ONLY if this request has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the person making the request must sign below, giving their full addresses.

1. Signature of Witness

2. Signature of Witness

Address (Number and street, City, State, and ZIP Code)

Address (Number and street, City, State, and ZIP Code)

FOR USE OF SOCIAL SECURITY ADMINISTRATION☐ APPROVED☐ NOT APPROVED
BECAUSE ➔☐ BENEFITS NOT
REPAID☐ CONSENT(S) NOT
OBTAINED☐ OTHER (Attach special
determination)

SIGNATURE OF SSA EMPLOYEE

TITLE

DATE

☐ CLAIMS
AUTHORIZER☐ OTHER (Specify)

FORM SSA 521 (11-85)

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: **Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street N.W., Washington, DC 20503**

1. Agency/Subagency originating request SOCIAL SECURITY ADMINISTRATION		2. OMB control number a. 0960 - 0066		b. ☐ None	
3. Type of information collection (check one) a. ☐ New Collection b. ☒ Revision of a currently approved collection c. ☐ Extension of a currently approved collection d. ☐ Reinstatement, without change, of previously approved collection for which approval has expired e. ☐ Reinstatement, with change, of a previously approved collection for which approval has expired f. ☐ Existing collection in use without an OMB control number <i>For b-f, note item A2 of Supporting Statement Instructions</i>		4. Type of review requested (check one) a. ☒ Regular submission b. ☐ Emergency-Approval requested by: c. ☐ Delegated 5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? Yes ☐ No ☒ 6. Requested expiration date a. ☒ Three years from approval date b. ☐ Other Specify			
7. Title Application for a Social Security Card					
8. Agency form number(s) (if applicable) SS-5					
9. Keywords Social Security Benefits, Identification Card					
10. Abstract The information collected on Form SS-5 is used by the Social Security Administration to assign Social Security Numbers so that individuals may obtain employment, report earnings, open bank accounts, pay taxes, apply for benefits and for other purposes. The affected public consists of individuals who apply for Social Security Numbers.					
11. Affected public (Mark primary with "P" & all others that apply with "X") a. ☒ Individuals or households b. ☐ Business or other for-profit c. ☐ Not-for-profit institutions d. ☐ Farms e. ☐ Federal Government f. ☐ State, Local or Tribal Government			12. Obligation to respond (Mark primary with "P" and all others that apply with "X") a. ☒ Voluntary b. ☐ Required to obtain or retain benefits c. ☐ Mandatory		
13. Annual reporting and recordkeeping hour burden a. Number of respondents 16,000,000 b. Total annual responses 16,000,000 1. Percentage of these responses collected electronically 0 c. Total annual hours requested 2,275,000 d. Current OMB inventory 2,000,000 e. Differences 2,275,000 f. Explanation of difference 1. Program change 0 2. Adjustments +275,000			14. Annual reporting and recordkeeping cost burden (in thousand of dollars) a. Total annualized capital/startup costs N/A b. Total annual cost (O & M) c. Total annualized cost requested d. Current OMB inventory e. Difference f. Explanation of difference 1. Program change 2. Adjustment		
14. Purpose of information (Mark primary with "P" and all others that apply with "X") a. ☒ Application for benefits b. ☐ Program evaluation c. ☐ General purpose statistics d. ☐ Audit e. ☐ Program planning or management f. ☐ Research g. ☐ Regulatory or compliance			15. Frequency of recordkeeping or reporting (check all that apply) a. ☐ Recordkeeping b. ☐ c. ☒ Reporting 1. ☒ On occasion 2. ☐ Weekly 3. ☐ Monthly 4. ☐ Quarterly 5. ☐ Semi-annually 6. ☐ Annually 7. ☐ Biennially 9. ☐ Other (describe)		
17. Statistical methods Does this information collection employ statistical methods? Yes ☐ No ☒			18. Agency contact (person who can best answer questions regarding the content of this submission) Name Frederick W. Brickenkamp Phone (410) 965-4145		

OMB FORM 83-1 (10/95)

The Application is not Binding

Some groups claim that you can cancel or void your social security card because you did not apply for it yourself. That is, your parent's or guardian submitted the application on your behalf when you were a child. Since you were not of legal age to enter into a contract, the original application for a social security card is not legally binding upon you as an adult; thus, the original application can be rescinded. There is merit to this assertion, but you will need to argue your case in court as soon as you reach the age of majority to be successful.

In *Valldejuli v. SSA*, (U.S. District Court, Gainesville, Florida 12/21/94), the plaintiff asserted that "he was fraudulently induced into signing a 'contract' with the Social Security Administration when he was eleven years old, and now seeks to void that contract." Although Chief Judge Paul ruled against the plaintiff, he did find some merit to the assertion ... the problem the judge had wasn't with the plaintiff's "fraudulently induced signing" ... it was with plaintiff's timing:

"Agreements entered into by minors are voidable because minors do not have capacity to contract. See, e.g., *Orange Motors of Miami, Inc. v. Miami Nat'l Bank*, 227 So.2d 717, 718 (Fla. 3d DCA 1969). However, it is basic hornbook law that a minor can ratify an otherwise voidable contract upon reaching the age of majority through either an affirmative act, or failure to disaffirm the contract within the period of the statute of limitations. ... In this case, the Plaintiff's birth certificate indicates he is forty years old. Plaintiff therefore reached the age of majority over twenty years ago - clearly beyond the statute of limitations - thereby ratifying what the Plaintiff claims is an otherwise voidable contract."

Termination of the Agreement

This assertion presents the idea that federal regulations provide the Social Security Administration with the legal authority to rescind or cancel a social security account. The proponents of this program tell you that you are asserting your legal rights under 20 CFR §404.1905, *Termination of agreements*. The claim is that the Social Security must and will cancel the social security number that had been assigned to you.

20 CFR §404.1905 Termination of agreements.

Each agreement shall contain provisions for its possible termination. If an agreement is terminated, entitlement to benefits and coverage acquired by an individual before termination shall be retained. The agreement shall provide for notification of termination to the other party and the effective date of termination.

After reading that portion of code you are left with the strong impression that their argument is reasonable. However, they fail to disclose the rest of the story, which is that the

agreement written of this portion of code is a thing call a *totalization agreement* defined in 20 CFR §404.1901.

Sec. 404.1901 Introduction.

(a) Under section 233 of the Social Security Act, the President may enter into an agreement establishing a totalization arrangement between the social security system of the United States and the social security system of a foreign country. An agreement permits entitlement to and the amount of old-age, survivors, disability, or derivative benefits to be based on a combination of a person's periods of coverage under the social security system of the United States and the social security system of the foreign country. An agreement also provides for the precluding of dual coverage and dual social security taxation for work covered under both systems. An agreement may provide that the provisions of the social security system of each country will apply equally to the nationals of both countries (regardless of where they reside). For this purpose, refugees, stateless persons, and other nonnationals who derive benefit rights from nationals, refugees, or stateless persons may be treated as nationals if they reside within one of the countries.

As we read both sections together, we find that a totalization agreement, which is entered into between “the President ... and ... a foreign country” “shall contain provisions for its possible termination.” This section of regulation has nothing to do with individual citizens and the issuance or recession of social security numbers. The proponents of this argument are simply pushing another scam.

Whose Number is it Anyway

According to 20 CFR §422.103, the social security number and the social security card belong to the Social Security Administration.

(b) Applying for a number – (1) Form SS-5. An individual needing a social security number may apply for one by filing a signed form SS-5 ...

...

... A person who is assigned a social security number will receive a social security number card ... social security number cards are the property of SSA and must be returned upon request.

Even though several Social Security Administration documents attempt to personalize the number by saying it is “your social security number,” nothing could be further from the truth. If it were your number, then you could do with it as you wish ... including changing the number. Many people would probably like to change *their* social security number to something more personal ... but if you do that, you could go to jail.

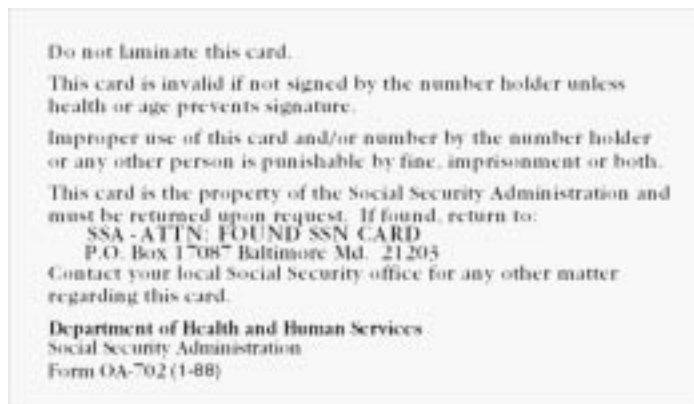
Since there are many laws that attempt to define using a false social security number as fraud it would be unwise to use a different number since using a number other than the one assigned to you might be considered fraud. However, declining or refusing to use a number because of religious/whatever conviction or because a number has not been assigned to you is legal and reasonable.

Additionally, telling people that *you* do not have a social security number, even if one was assigned to you, may be a correct statement for three primary reasons:

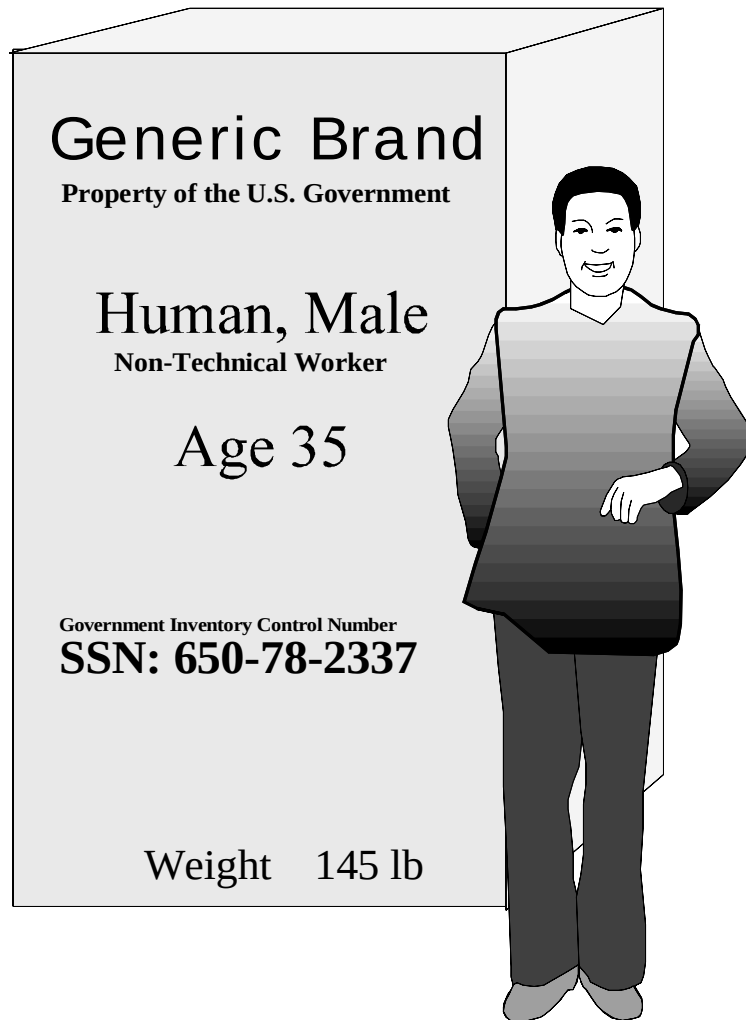
1. The social security number is not yours, it belongs to the Social Security Administration. If it was yours, they could not prevent you from changing it.
2. You probably did not solicit the Social Security Administration for a social security number ... somebody else, maybe your parents, did that for you. As such, you have no obligation, nor have you made any promises regarding the use, disuse, or abuse of any social security number that may have been assigned to you because of somebody else's action. ... Since you were not a party to the action, you are not obligated to recognize the fact that someone else may/or may not have requested a social security number for you ... The point is ... *you* have no social security number.
3. Your belief that you may have been assigned a social security number may, in fact, be based hearsay evidence, such as your parents *told you* this is your number, or they *told you* that completed the application. While you may believe everything these people *tell you* ... such evidence would not be admissible in court and should therefore not be your basis for believing it to be factual.

Property of the Social Security Administration

Notice the wording on the back of a social security card.



“This card is the property of the Social Security Administration and must be returned upon request.” Is there any question left now, about whose number it is and what it is really used for?



The Privacy Laws

There is no single law that protects an employee's right to privacy. Instead, protections are derived from a patchwork quilt of laws that offer some privacy protection in the workplace.

There is, of course, the fourth amendment to the Constitution, which prohibits unreasonable search and seizure, but that only protects against the government. Additionally laws vary from state to state, and some states give workers more privacy protection than others. Some states place statutory restrictions on certain types of invasions of privacy, such as random drug tests.

Below are some of the main federal laws, in addition to those that were discussed elsewhere, that provide some privacy protections in the workplace:

- **The Americans With Disabilities Act:** Prohibits employers from requiring physical examination or requesting medical information prior to a conditional offer of employment. It requires that physical exams of existing employees be job-related.
- **The Electronic Communications Privacy Act:** Gives employers the right to monitor e-mail and voice mail of their employees if the messages are on a system provided by the employer. If the system is provided by an outside supplier, the employer needs authorization from the sender or receiver of the message to access it.
- **The Employee Polygraph Protection Act:** Restricts the use of lie detector tests in the workplace of most employment settings as a pre-employment screen or for discharging an employee who refuses to submit to a polygraph test. Exceptions include security guards working for security firms and firms that work with controlled substances.
- **Fair Credit Reporting Act:** Requires employers to notify an employee if a credit check is made and must inform employee if actions are taken based on the report.
- **The Federal Privacy Act:** Covers only federal employees. It requires disclosure to employees of personnel records, allows them to examine, copy and challenge the information. It restricts contents to current, accurate and relevant information and limits access to outsiders.
- **The Omnibus Crime Control and Safe Streets Act of 1968:** Prohibits employers from listening in on private conversations of employees.

