

1 elias Agredo-narvaez
2 C/O ELIAS AGREDO-NARVAEZ
3 1080-B East Veterans Highway
4 Jackson New Jersey
5 [08527]

6 July 21, 2018

7
8 INTERNAL REVENUE SERVICE
9 Frivolous Return Prog., Stop 4450
10 OGDEN UT. 84201-0059

11
12
13 ATTN:
14 CHRISTINE L. DAVIS
15 Program Manager RICS/IVO

16
17 RE: 1486974576 and;
18 Your LTR 3176C returned to you because it has no relevance to me or my filings.

19
20 Dear CHRISTINE L. DAVIS
21 Here you go again with another round (#5) of your circumvention scheme.

22
23 Firstly, I completely disagree with the assessment of "frivolous filing" and by the way did you
24 know that using the U.S. mail to send threatening communications is a crime and punishable
25 violation of 18 U.S.C. 876?

26
27 I do not believe that the vague assertions made on your COPY AND PASTE signed notice styled
28 as LTR 3176C sent to me 7/18/2018 (attached herein) amount to sufficiently formal
29 controversion of the testimony on my return as to merit specific response. For one thing, your
30 notice fails to identify any actual flaw in my return.

31
32 Further, while you make unspecific assertions that what [I] submitted is based on positions
33 that fall under one or both of [either a "position" identified as "frivolous" under section 6702(c)
34 or reflective of a desire to delay or impede the administration of federal tax laws], you fail to
35 also allege (vaguely or otherwise) that "my submission" either does not contain information on
36 which the substantial correctness of the self-assessment can be judged or contains information
37 that on its face indicates that the self-assessment is substantially incorrect. One or the other of
38 the latter characteristics must be true for a return to actually qualify as "frivolous" under the
39 statute you cite.

40
41 Let me ask you, what is the basis of this frivolous determination? The law clearly states 3
42 reasons with subparagraphs which unequivocally describe and define "frivolous return" and
43 my 2017 doesn't meet any of the items mentioned. The law specifies that **any liability for a tax**
44 **must be based upon a taxpayer's self-assessment.** Since I do have firsthand and personal

45 knowledge, I profoundly disagree with IRS' conclusion since I have studied the law with respect
46 to this matter and double-checked the subject return against every known or published
47 definition (both state and federal) of "frivolous" and every active list of "frivolous arguments"
48 and found that none of any of my previous filed documents are not, in the smallest way tinted,
49 by even one of them. I agree that any frivolous arguments ought not to be accepted, but I
50 relied upon no such arguments, in fact; my 2017 form 1040 doesn't even make any argument
51 since that form contains only numbers not paragraphs or anything resembling an argument.

52
53 So, while your determination is conveniently boiled down to one vague word, an adequate
54 rebuttal requires some actual effort, even though the burden of proof is clearly upon the
55 Secretary of the Treasury, or your direct supervisor(S) whose name(s) I hereby request to know.
56 **! The mere word an IRS employee does not turn hearsay into a fact!!**

57
58 And let me inform you of just another simple reason why I am not and cannot be a **person**
59 **subject to the determination of a frivolous return:**

60

61 **26 USC sec 6671 Rules For Application Of Assessable Penalties**

62 **(b) Person defined**

63 *The term "person", as used in this subchapter, **includes an officer or employee of a corporation,***
64 ***or a member or employee of a partnership, who as such officer, employee, or member is under***
65 ***a duty to perform the act in respect of which the violation occurs.***

66 Now Dear Christine try and find the IRS's evidence that my job title reflects the titles with bold
67 italic and underlined letters shown above.

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71 Further still, your notice offers an opportunity for me to withdraw and replace my return with
72 one more to your [unspecified] preferences within 30 days without suffering the harm you
73 threaten if I stick by the testimony to which I have already sworn, but which you appear to find
74 inconvenient. However, according to the statute your notice purports to enforce, it is only
75 certain requests for hearings and applications for payment and compromise agreements and
76 "taxpayer assistance orders" that qualify as "frivolous" and subject to penalty merely for
77 suffering one of the two flaws to which you vaguely refer, and not also one or the other of the
78 two I reference above of which you make no mention. Notably, it is also only such submissions--
79 and NOT returns-- that can be afforded the "withdraw and replace" consideration you
80 generously propose. See 26 USC 6702(b).

81

82 It can only be assumed that you are seriously confused or have mistaken my return for
83 someone else's "submission". In the alternative, you may be simply trying to operate outside
84 your authority in making these extortionate threats.

85

86 Please also note that per 26 CFR 301.6020-1, when a return has actually been "determined" to
87 be "frivolous" by someone in your agency, you are required to prepare and sign a substitute
88 return:

89
90 "If any person required by the Internal Revenue Code or by the regulations to make a return...
91 ...makes, willfully or otherwise, a false, fraudulent or frivolous return, the Commissioner or
92 other authorized Internal Revenue Officer or employee shall make such return from his own
93 knowledge and from such information as he can obtain through testimony or otherwise." 26
94 CFR 301.6020-1.

95
96 There is no indication that such a substitute return has been made. Had one been made, the
97 allegation that my return is "frivolous" would still be unproven, of course, but at least the
98 signature of your officer on the substitute, accepting the legal risks for producing it, would
99 evince good-faith in making the accusation.

100
101 But no substitute return has been made, (has it?) and this is additional evidence that your
102 notice is simply a deliberate fraudulent effort at witness-tampering and extortion. (Or perhaps
103 you would argue that this provision doesn't apply, because I am not "a person required by the
104 Internal Revenue Code or by the regulations to make a return"? That is an argument I will
105 readily endorse, but not one that will help your case much, I think... Plus, your other problems
106 of no actual "frivolous" aspect to my return, and the inapplicable 30-day thing remain for you to
107 stumble over...)

108
109 In sum, your notice is incomprehensible, contradicted by the evidence, obviously made in bad-
110 faith and apparently unrelated to any actual authority concerning "frivolous returns".

111
112 Nonetheless, experience has taught me that you are reflexively devious and exploitive. Even
113 though your "LTR 3176C" is on its face meaningless, I will operate on the presumption that it is
114 sent as a pretext on the basis of which you will imagine some further actions to be legitimized
115 should I fail to rebut.

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118 In any event, you bear the burden of proving your allegations, a burden which is NOT met by
119 simply making vague assertions and threats. I suggest you seek competent legal advice. By the
120 way, nothing I have done or do now by making this response or otherwise is to be construed as
121 a waiver of any of my rights; further, I particularly demand and insist upon every due process
122 protection relevant to this matter under the common law, New Jersey state law and federal
123 law.

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This document and all attachments must
Be filed as a permanent part of my
IRS/TDA/AIMS/IMF 23C Record if such
record has/had been deleted or
substituted, this demand still applies.

Name initials

Respectfully;

Without prejudice

FOR ELIAS AGREDO-NARVAEZ;

By: elias Agredo/narvaez DATE: 07/21/18

Attachments:

- This document item# 12231972-EAN- response to IRS LTR 3176C-2017 **4 pages**
 - YOUR "LTR 3176C" exactly as it was sent to me. **9 pages and 2 envelopes**
 - Affidavit Reference copy of previously-submitted tax return 2017. **10 pages**
 - information pertaining definitions as they are written in the law **2 pages**
- TOTAL OF PAGES INCLUDED 25**

"[I]ncluding... ..connotes simple an illustrative application of the general principle."

Federal Land Bank of St. Paul v. Bismark Lumber Co., 314 U.S. 95,
62 S. Ct. 1 U.S.(1941)

as has the Treasury Department:

"The terms "includes and including" do not exclude things not enumerated which are in the same general class."

This language was previously published as both 27 CFR 26.11 and 27 CFR 72.11
It not appears at 27 CFR 18.11, and at 27 CFR 447.11 with the addition of
"or are otherwise within the scope thereof".

26 CFR Sect 7491(a)(1)

If any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue:

Policy never becomes law no matter how well used or well accepted. Policy never gains legal authority by usage. *Hall v State* 933 S.W.2d 363, 326 Ark. 318

If you fail to identify the statutorily defined elements you presume exists to reach the "frivolous" conclusion you propose, then you will have failed to state a claim upon which relief can be granted.

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

"...if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer..." ***Hassett v. Welch.***, 303 US 303, 314, (1938)

26 USC §301.6671-1 Rules for application of assessable penalties [including "frivolous" return]: (b) Person defined- The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

26 U.S. Code § 3121 – Definitions

(a) WAGES For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term **shall not include**:

(b) EMPLOYMENT

For purposes of this chapter, the term "employment" means any service, of whatever nature, performed **(A)** by an employee for the person employing him, irrespective of the citizenship or residence of either, **(i)** within the United States, or **(ii)** on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or **(B)** outside the United States by a citizen or resident of the United States as an employee for an American employer (as defined in subsection **(h)**), or **(C)** if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act; except that such term **shall not include**—

(1)

service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2)

domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)

(A)

service performed by a child under the age of 18 in the employ of his father or mother;

(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter;

26 U.S. Code § 7701 – Definitions

(26) TRADE OR BUSINESS

The term "trade or business" includes **the performance of the functions of a public office.**

(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.

The US Supreme Court has helpfully described the application of this tax law rule:

"[T]he verb "includes" imports a general class, some of whose particular instances are those specified in the definition."

Helvering v Morgan's, Inc., 293 U.S. 121, 126 fn. 1 (1934);