Plaintiff, v. INTERNAL REVENUE SERVICE


INTRODUCTION

1. Plaintiff seeks to compel disclosure of agency records requested from the Internal Revenue Service (“Defendant”) in a FOIA request to which Defendant has not lawfully responded. Plaintiff submitted the FOIA request to Defendant on December 19, 2023 seeking documents regarding the revised process for implementing Information Document Requests (“IDRs”) and auditing partnerships.

2. To date, Defendant has not responded as required by U.S.C. § 552(a)(6)(A)(i), despite FOIA’s requirement for agencies to respond to requests within 30 working days.

3. Plaintiff asks the Court to enjoin Defendant from withholding requested records and order Defendant to produce any agency records improperly withheld from Plaintiff.
JURISDICTION AND VENUE

4. This Court has jurisdiction over this case pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

5. Venue is proper in this Court pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES


7. Defendant is an agency of the United States government within the meaning of 5 U.S.C. § 552(f)(1), headquarterd in Washington, D.C., that has possession and control over the records that Plaintiff seeks under FOIA.

STATUTORY FRAMEWORK


9. For requested materials to qualify as “agency records,” the agency must either create or obtain the requested materials and be in control of the requested materials at the time FOIA request is made. *Dep’t of Justice v. Tax Analysts*, 492 U.S. 136, 144-45 (1989).

10. After receipt of a FOIA request, each agency must “determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request . . . .” 5 U.S.C. § 552(a)(6)(A).

12. An agency response that merely acknowledges receipt of a request does not constitute a “determination” under FOIA. *Citizens for Responsibility & Ethics in Washington v. Fed. Election Comm’n*, 711 F.3d 180, 186 (D.C. Cir. 2013) (“The agency must at least inform the requester of the scope of the documents that the agency will produce, as well as the scope of the documents that the agency plans to withhold under any FOIA exemptions.”); see also U.S. Dep’t of Justice, Office of Information Policy, *FOIA Counselor: Questions & Answers*, 13 FOIA UPDATE 3, at 5 (1992).

13. Under “unusual circumstances,” the time limit may be extended an additional 10 working days “by written notice to the person making such request setting forth the unusual circumstances for such extension.” 5 U.S.C. § 552(a)(6)(B).

14. Unusual circumstances include “the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.” 5 U.S.C. § 552(a)(6)(B)(iii)(I).

15. If after the 30 working days, the agency fails to respond to a FOIA request, the requester is deemed to have exhausted administrative remedies and can seek judicial review. See *Khine v. U.S. Dep’t of Homeland Sec.*, 943 F.3d 959, 966 (D.C. Cir. 2019) (“a requester may be treated as if [he] exhausted the administrative appeals process where the agency did not provide a timely determination . . . .”).

16. This Court has jurisdiction upon receipt of a complaint to review, de novo, the agency’s failure to respond and order the production of any agency records improperly withheld from Plaintiff. 5 U.S.C. § 552(a)(4)(B)
STATEMENT OF FACTS

17. On December 19, 2023, Plaintiff submitted a request made under FOIA by mailing a written request via certified mail. Attached as Exhibit A is a true and correct copy of the December 19, 2023 FOIA request.

18. The December 19, 2023 FOIA request sought IRS Office of Chief Counsel employee Clifford Warren’s “paper” that he discussed at a November 14, 2023 American Bar Association Section of Taxation’s Philadelphia Tax Conference, as reported in an article titled “IRS Taking Partnership Audits to New Level,” written by Kristen Parillo and published in Tax Notes on November 15, 2023. See Ex. A at 2, 5-6.

19. The December 19, 2023 FOIA request sought copies of documents “whose title or description matches the following”:

   a. Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to the drafting IDR5 for partnerships, other pass-through entities, or their owners.

   b. Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to the enforcement of IDR5 for partnerships, other pass-through entities, or their owners, including but not limited to the use of delinquency letters and summonses.

   c. Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to strategies for conducting examinations of partnerships, other passthrough entities, or their owners.

Ex. A at 2.

20. The December 19, 2023 FOIA request sought expedited processing pursuant to Treas. Reg. § 601.702(c)(6).

21. In a letter dated January 9, 2024, Defendant responded to the December 19, 2023 FOIA request by stating it received the FOIA request on January 2, 2024, denying the request for
expedited processing, and assigning the FOIA request case number 2024-06232. Attached as Exhibit B is a true and correct copy of Defendant’s January 2, 2024 acknowledgment of receipt.

22. Twenty working days after the January 2, 2024 receipt date, excluding the Martin Luther King Jr. Day holiday, is January 31, 2024.

23. In Defendant’s January 9 letter to Plaintiff, Defendant noted January 31, 2024 as its “initial estimated completion date” of the FOIA request. See Ex. B.

24. On January 30, 2024, Defendant requested a 10-day extension to “[s]earch for and, to the extent that records exist, collect requested records from other locations” and stated that the statutory response date will be extended until February 14, 2024. Attached as Exhibit C is a true and correct copy of Defendant’s January 30, 2024 extension request.

25. Defendant’s January 30, 2024 extension request further stated that it “will still be unable to respond to [Plaintiff] by the extended statutory response date.” See Ex. C. at 1.

26. To date, Defendant has not responded with a determination about producing the materials requested in the December 19, 2023 FOIA request.

27. The February 14, 2024 deadline for Defendant to respond to the FOIA request has expired and Defendant is not entitled to any further, unilateral delay.

28. Because Defendant has failed to respond to Plaintiff’s December 19, 2024 FOIA request within 30 working days, Plaintiff has exhausted its administrative remedies in accordance with 5 U.S.C. § 552(a)(6)(C)(i) with respect to the December 19, 2023 FOIA request.

**CAUSE OF ACTION**

29. Plaintiff asserts and incorporates by reference the preceding paragraphs.

30. Plaintiff properly requested records under Defendant’s control and possession, in compliance with FOIA.
31. Plaintiff is entitled under FOIA to access the records requested in the FOIA request and Defendant is obligated to respond within 20 working days, which may be extended an additional 10 working days under “unusual circumstances.” 5 U.S.C. §§ 552(a)(3), (a)(6)(A)(i), (a)(6)(B).

32. Defendant failed to disclose all requested records within the statutory timeframe in violation of 5 U.S.C. §§ 552(a)(6)(A)(i) and 552(B).

33. Plaintiff exhausted his administrative remedies with regard to the improperly withheld records.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

a. Declare that Defendant’s failure to disclose the records requested by Plaintiff violates FOIA, 5 U.S.C. §§ 552(a)(3) and 552(a)(6)(A)(i);

b. Enjoin Defendant from withholding requested records and order Defendant to produce any agency records improperly withheld from Plaintiff, in accordance with 5 U.S.C. § 552(a)(4)(B); and

c. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted, Dated: March 18, 2024

/\s/ Sonya C. Bishop
Sonya C. Bishop
Bar No. NY0568
Baker & McKenzie, LLP
452 Fifth Avenue
New York, NY 10018
Phone: (332) 215-5812
Fax: (212) 310-1748
sonya.bishop@bakermckenzie.com
Exhibit A
December 19, 2023

Disclosure Manager
Internal Revenue Service
GLDS Support Services
Stop 211
PO Box 621506
Atlanta, GA 30362-3006

Re: Request Made Under the Freedom of Information Act

Dear Disclosure Officer,

I am making this request pursuant to or under the Freedom of Information Act, 5 U.S.C. § 552, as amended. I request that copies of the documents described in section 3 of this letter be provided to me, George M. Clarke.

1. Definitions

The words “document” or “documents”, as used in this request, should be construed in their broadest sense to include but not be limited to every draft, original, or non-identical copy (whether different from the original by reason of notations made on such copy or otherwise), regardless of location, of all writings, drawings, graphs, charts, photographs, electronically stored data, and other data compilations from which information can be obtained or translated, if necessary, through detection devices into reasonably usable form. Any alterations, notes, comments, or other material contained thereon or attached thereto not included in any original or other copy shall be deemed a separate document within the foregoing.

2. Background

At the American Bar Association Section of Taxation’s Philadelphia Tax Conference, Clifford Warren of the Internal Revenue Service (“IRS”) Office of Associate Chief Counsel (Passthroughs and Special Industries) described a “paper” that he authored, contributed to, or had some authority over titled or generally referred to as “The Art of the IDR.” See Kristen A Parillo, IRS Taking Partnership Audits to New Level, Tax Notes (Nov. 15, 2023) (attached). “IDR” stands for “information document request.” Id. This document was likely authored or circulated in 2023.

Mr. Warren also stated: “Things have been changing at the IRS, so you’re going to see lots of different sorts of IDRs, different strategies, and a whole new level of partnership audits that are supported throughout the entire organization.” See id. He was further cited for the proposition that “[t]he IRS will likely come down hard on those who blatantly refuse to comply with IDRs, . . . adding that the agency has issued summonses to several taxpayers that chose to ignore IDRs.” Id.
3. **Requested Documents**

With the above background information informing your search, I request copies of documents whose title or description matches the following:

a. The “paper” Mr. Warren described on November 14, 2023 as “The Art of the IDR”.

b. Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to the drafting IDRs for partnerships, other pass-through entities, or their owners.

c. Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to the enforcement of IDRs for partnerships, other pass-through entities, or their owners, including but not limited to the use of delinquency letters and summonses.

d. Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to strategies for conducting examinations of partnerships, other pass-through entities, or their owners.

4. **Format for Delivery**

The requested documents should be provided to me in electronic form, such as by email to my the email address listed in section 6 below or uploaded to a USB drive sent to the physical address listed in section 6 below. If electronic copies are unable to be provided, a paper copy of the documents should be sent to the physical address listed in section 6 below.

If it is determined that any requested document or record, or any portion thereof, will not be disclosed, please provide me with the non-exempt documents and records and with the non-exempt portions of the remaining documents and records. In the event an exemption is claimed, please provide me with all segregable non-exempt portions of any withheld document or record pursuant to 5 U.S.C. § 552(b). When material is to be redacted, please “black out” rather than “white out” or “cut out” any portions for which an exemption is claimed.

If records responsive to this request have been destroyed, please identify the documents destroyed, the date of destruction, and the person who destroyed the document.

Pursuant to 5 U.S.C. §§ 552(a)(6)(A)(i) and 552(b), if this request is denied either in part or in whole, please provide me with an index that specifies which exemption(s) is (are) being claimed for each portion of each document withheld. To the extent materials are withheld, please provide a detailed description of each document or record withheld, including the author(s) and any recipients, the date of its creation, its subject matter, and its current physical location. In addition, please provide the reason that each document or record falls within the exemption claimed for it. Please also specify the number of pages in each document or record and the total number of pages that are responsive to this request. Such an index is required to
allow me to evaluate the IRS’s claims that these documents are exempt from disclosure. See *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974).

5. ** Expedited Processing, Inspection, Type of Requestor, and Fees **

I do not wish to inspect the documents before receiving them.

In order to determine my status for the applicability of fees, I am a tax attorney at the law firm of Baker & McKenzie LLP. I am a commercial-use requestor under Treas. Reg. § 601.702(f)(3)(ii)(A), and I am seeking records to learn more about the Internal Revenue Service’s practices so that I can better represent my clients.

I am willing to pay fees of up to $5,000 for this request. If you estimate that the fees will exceed that limit, please inform me before taking any action that would require you to charge more than $5,000.

I would like this request to receive expedited processing pursuant to Treas. Reg. § 601.702(c)(6). I certify that to the best of my knowledge and belief, it is true and correct that Mr. Warren’s recent statements suggest that the IRS will be engaging in aggressive enforcement activities. Because I represent taxpayers examined by the IRS, I have a compelling need to understand how the IRS plans to impose on my clients so that I can effectively advise them and protect their rights.

6. ** My Contact Information **

I, George M. Clarke, am the requestor. The requestor’s name and physical address is:

    George M. Clarke  
    Baker & McKenzie LLP  
    815 Connecticut Ave., N.W.  
    Washington, D.C. 20006

Additional contact information for the requestor is below:

- Email address: george.clarke@bakermckenzie.com
- Fax number: 202-416-7184
- Phone number: 202-835-6184

I would appreciate a response to this request within twenty working days, as provided by 5 U.S.C. § 552(a)(6)(A)(i).

Thank you for your attention with this matter. Please do not hesitate to contact me with any questions.
Best regards,

George M. Clarke
Partner
+1 202 835 6184
george.clarke@bakermckenzie.com

Encl.

Cc: Joy Williamson
    Sonya C. Bishop
    Baker McKenzie
IRS Taking Partnership Audits to New Level

Posted on Nov. 15, 2023

By Kristen A. Parillo

The IRS's audits of large partnerships will hit a whole new level with a strategy that includes a new mega passthroughs unit and a fresh approach to information document requests, according to an official.

Clifford Warren of the IRS Office of Associate Chief Counsel (Passthroughs and Special Industries) described his office's involvement in the compliance crackdown on large corporations and partnerships and high-income earners during the American Bar Association Section of Taxation's Philadelphia Tax Conference November 14.

As detailed in a September 8 release, the IRS Large Business and International Division will audit 75 of the country's largest partnerships under an initiative launched in October 2021 that applies to partnerships with more than $10 million in assets. The agency said it will also mail compliance letters to 500 large partnerships that have ongoing balance sheet discrepancies.

To support the IRS's increased enforcement and audit coverage of large partnerships and complex arrangements involving passthrough entities, the agency announced September 20 that LB&I is forming a new unit dedicated to passthrough issues.

The mega passthrough organization will be highly specialized, Warren said. “It's going to be much more efficient for us,” he said, explaining that previously there was only some partnership expertise within LB&I and the Small Business/Self-Employed Division. “That's being combined, and they're hiring a lot of new people,” he added.

“We are getting billion-dollar partnership cases sent to us on almost a weekly basis now,” Warren said, adding that chief counsel is now involved from the beginning of the audit phase when IDRs are issued. “My last paper that went around was ‘The Art of the IDR,’” he said.

“Things have been changing at the IRS, so you're going to see lots of different sorts of IDRs, different strategies, and a whole new level of partnership audits that are supported throughout the entire organization,” Warren said.

Don't Ignore

Warren asked the audience to pass along a message to other tax advisers and their clients: “You ought to answer an IDR.”

“People are now so brazen that they just say, ‘Nah, you have that,’ or ‘We're not giving it to you,’” Warren said. “That sets a really bad tone. We are seeing that on billion-dollar cases for Fortune 500 companies — it's shocking.”
The IRS will likely come down hard on those who blatantly refuse to comply with IDRs, Warren said, adding that the agency has issued summonses to several taxpayers that chose to ignore IDRs.

Warren couldn’t say whether tax professionals should expect to see summons enforcement cases dealing with those situations, but he explained that the IRS hopes that taxpayers who receive a summons understand that the agency means business and produce the requested information.

“There’s one taxpayer that may never comply, so we’ll see what happens,” Warren said.
Exhibit B
Dear George M. Clarke:

This letter acknowledges your Freedom of Information Act (FOIA) request we received on January 2, 2024. The initial estimated date of completion for your request is January 31, 2024.

Please be advised that if the records you seek are tax related, any records previously submitted by a taxpayer to the Internal Revenue Service will not be considered within the scope of your request unless you advise us to the contrary in writing.

You asked us to expedite the processing of your FOIA request. We’re denying your request for expedited processing. The circumstances you described don’t meet the criteria for a compelling need and/or you did not certify the criteria to be true and correct.

The FOIA allows expedited processing when a requester demonstrates a compelling need for the information. A compelling need is present when:

- Failure to obtain the records on an expedited basis could pose an imminent threat to an individual’s life or physical safety,
- There is an urgent need to tell the public about actual or alleged federal government activity, if made by a person whose main professional activity is disseminating information to the public,
- Failure to obtain the records may cause a loss of substantial due process rights.

We’ll search for the requested documents. We’re required to review all documents prior to release. We’ll notify you in writing if we need additional time.

If you want reconsideration for expedited processing, submit a statement describing the compelling need and mail to the address in the upper left-hand corner of this letter. You must also certify that your statement is true and correct to the best of your knowledge and belief. To do this, include a declaration such as: I certify under penalty of perjury that the information is true and correct to the best of my knowledge.
We are not considering your request for an index of the deleted material, sometimes referred to as a Vaughn Index, because it would require creation of personalized and specific statements. The FOIA gives individuals access rights to existing agency records and FOIA case law doesn’t require agencies to produce indices in processing FOIA requests.

If you have questions regarding the processing of your FOIA request, please contact the caseworker assigned to your case at the phone number listed at the top of this letter.

If you are not able to resolve any concerns you may have regarding our response with the caseworker, you have the right to seek dispute resolution services by contacting our FOIA Public Liaisons at 312-292-3297. The FOIA Public Liaison is responsible for assisting in reducing delays, increasing transparency, and assisting in the resolution of disputes with respect to the FOIA.

There is no provision for the FOIA Public Liaison to address non-FOIA concerns such as return filing and other tax-related matters or personnel matters. If you need assistance with tax-related issues, you may call the IRS at 800-829-1040.

Sincerely,

Jeremy Woods
Disclosure Manager
Disclosure Office 13
Department of the Treasury
Internal Revenue Service

Notice 393
(Rev. September 2016)

Information on an IRS Determination to Withhold Records Exempt From

Appeal Rights

You may file an appeal with the Internal Revenue Service (IRS) within 90 days after we (1) deny you access to a record in whole or in part; (2) have made an adverse determination as to your category as a requester; (3) deny your request for a fee waiver or reduction; or (4) have advised you that no records responsive to your request exist. You may file an appeal within 10 days when a request for expedited processing has been denied.

Your appeal must be in writing, must be signed by you, and must contain:

Your name and address,
- Description of the requested records,
- Date of the request (and a copy, if possible),
- Identity of the office and contact on the response letter, and
- Date of the letter denying the request (and a copy, if possible)

Mail your appeal to:

IRS Appeals
Attention: FOIA Appeals
M/Stop 55202
5045 E. Butler Ave.
Fresno, California 93727-5136

Judicial Review

If we deny your appeal, or do not address an issue raised in your appeal within 20 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal, you may file a complaint in United States District Court in the district in which (1) you reside; (2) your principal place of business is located; (3) the records are located; or (4) the District of Columbia. A complaint may be filed within 10 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal. If your appeal is from an adverse determination of a request for expedited processing. If you choose to file suit before receipt of a final determination by the Appeals office, the administrative appeals process may cease.

The rule for effecting service of judicial process upon the Internal Revenue Service is set forth in Federal Rule of

Civil Procedure 4(l). In addition to service upon the United States, as set forth in Rule 4(l)(1), service must be made upon the Internal Revenue Service by registered or certified mail as set forth in Rule 4(l)(2)(A).

The address of the Internal Revenue Service is: Internal Revenue Service, Attention: CC:PA, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Exemptions

The Freedom of Information Act, 5 U.S.C. 552, does not apply to matters that are:

(b)(1) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under such executive order,
(b)(2) related solely to the internal personnel rules and practices of an agency,
(b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that the statute:
(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(D) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Note: Internal Revenue Code sections 6103 and 6105 are statutes which qualify for exemption 3 treatment. Section 6103 protects the confidentiality of tax returns and information pertaining to a taxpayer collected by the IRS. Section 6105 protects information obtained from a foreign country under a tax treaty.

(b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential,
(b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency,
(b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,
(b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:
(A) could reasonably be expected to interfere with enforcement proceedings,
(B) would deprive a person of a right to a fair trial or an impartial adjudication,

(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(D) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(F) could reasonably be expected to endanger the life or physical safety of any individual.

(b)(8) • contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, or

(b)(9) • geological and geophysical information and data, including maps, concerning wells.
Exhibit C
Dear George M. Clarke:

This is in response to your Freedom of Information Act (FOIA) request we received on January 2, 2024.

You asked for a copy of the following:

"The paper" described on the "The Art of IDR" authored by IRS Chief Counsel Clifford Warren.

Memoranda, presentations, statements of policy, statements of procedure, and training materials created, revised, or updated any time between January 1, 2021 to the date of this letter, related to the drafting & enforcement IDRs for partnerships, other pass-through entities, or their owners and strategies for conducting exam of partnerships, pass-through entities, and or their owners.

"The paper" described on the "The Art of IDR".

We’re unable to provide the information you requested by January 31, 2024, which is the 20 business-day period required by law for us to respond.

In certain circumstances, the FOIA allows for an additional 10-day statutory extension. I need additional time to:

☑ Search for and, to the extent that records exist, collect requested records from other locations,

☐ Review a large volume of records,

☐ Consult with another agency and/or two or more Treasury components.

As part of this extension, the statutory response date will be extended to February 14, 2024. Unfortunately, we will still be unable to respond to you by the extended statutory response date.
We expect to provide a final response to your request by April 30, 2024. You don’t need to reply to this letter if you agree to this extension. Please consider contacting me to arrange an alternative timeframe for processing the request or limiting the scope of your FOIA request, which may reduce the timeframe in processing your request.

Pursuant to 26 CFR § 601.702, there is no right to an administrative appeal for failure to meet the statutory 20 business-day, or additional 10 business-day, timeframes for response.

However, you do have the right to file suit for a judicial review. You can file suit after February 14, 2024. File your suit in the U.S. District Court:

- Where you reside or have your principal place of business,
- Where the records are located, or
- In the District of Columbia

Rule 4(i)(1)(C), of the Federal Rules of Civil Procedure, requires you to send the IRS a copy of the summons and complaint as well as to the Attorney General and the United States Attorney for the district in which the action is brought. You must send the IRS copies, by registered or certified mail, to:

Commissioner of Internal Revenue  
Attention: CC: PA: Br 6/7  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

We apologize for any inconvenience this delay may cause.

If you have questions regarding the processing of your FOIA request, please contact the caseworker assigned to your case at the phone number listed at the top of this letter.

If you are not able to resolve any concerns you may have regarding our response with the caseworker, you have the right to seek dispute resolution services by contacting our FOIA Public Liaisons at 312-292-3297. The FOIA Public Liaison is responsible for assisting in reducing delays, increasing transparency, and assisting in the resolution of disputes with respect to the FOIA.

There is no provision for the FOIA Public Liaison to address non-FOIA concerns such as return filing and other tax-related matters or personnel matters. If you need assistance with tax-related issues, you may call the IRS at 800-829-1040.

You also have the right to contact the Office of Government Information Services (OGIS). The Office of Government Information Services, the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and federal agencies. The contact information for OGIS is:
Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

Sincerely,

Jeremy Woods
Disclosure Manager
Disclosure Office 13
**I. PLAINTIFFS**

GEORGE M. CLARKE, III.

**DEFENDANTS**

INTERNAL REVENUE SERVICE

**II. BASIS OF JURISDICTION**

(PLACE AN x IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

**CITIZEN OF THIS STATE**

- PTF: 1
- DFT: 1

**CITIZEN OF ANOTHER STATE**

- PTF: 2
- DFT: 2

**CITIZEN OR SUBJECT OF A FOREIGN COUNTRY**

- PTF: 3
- DFT: 3

**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

**A. Antitrust**

- 410 Antitrust

**B. Personal Injury/Malpractice**

- 310 Airplane
- 315 Airplane Product Liability
- 320 Assault, Libel & Slander
- 330 Federal Employers Liability
- 340 Marine
- 345 Marine Product Liability
- 350 Motor Vehicle
- 355 Motor Vehicle Product Liability
- 360 Other Personal Injury
- 362 Medical Malpractice
- 365 Product Liability
- 367 Health Care/Pharmaceutical
- 368 Asbestos Product Liability

**C. Administrative Agency Review**

- 151 Medicare Act
- Social Security
- 861 HIA (1395f)
- 862 Black Lung (923)
- 863 DIWC/DIWW (405(g))
- 864 SSDI Title XVI
- 865 RSI (405(g))
- Other Statutes
- 891 Agricultural Acts
- 893 Environmental Matters
- 890 Other Statutory Actions (If Administrative Agency is Involved)

**D. Temporary Restraining Order/Preliminary Injunction**

Any nature of suit from any category may be selected for this category of case assignment.

*(If Antitrust, then A governs)*

**E. General Civil (Other)**

- Real Property
  - 210 Land Condemnation
  - 220 Foreclosure
  - 230 Rent, Lease & Ejectment
  - 240 Torts to Land
  - 245 Tort Product Liability
  - 290 All Other Real Property
- Personal Property
  - 370 Other Fraud
  - 371 Truth in Lending
  - 380 Other Personal Property Damage
  - 385 Property Damage Product Liability
- Bankruptcy
  - 422 Appeal 28 USC 158
  - 423 Withdrawal 28 USC 157
- Prisoner Petitions
  - 535 Death Penalty
  - 540 Mandsamus & Other
  - 550 Civil Rights
  - 555 Prison Conditions
  - 560 Civil Detainee – Conditions of Confinement
- Property Rights
  - 820 Copyrights
  - 830 Patent
  - 835 Patent – Abbreviated New Drug Application
  - 840 Trademark
  - 880 Defend Trade Secrets Act of 2016 (DTSA)
- Federal Tax Suits
  - 870 Taxes (US plaintiff or defendant)
  - 871 IRS-Third Party 26 USC 7609
- Forfeiture/Penalty
  - 625 Drug Related Seizure of Property 21 USC 881
  - 690 Other
- Other Statutes
  - 375 False Claims Act
  - 376 Qui Tam (31 USC 3729(a))
  - 400 State Reapportionment
  - 430 Banks & Banking
  - 450 Commerce/ICC Rates/etc
  - 460 Deportation
  - 462 Naturalization Application

**F. Pro Se General Civil**

- 465 Other Immigration Actions
- 470 Racketeer Influenced & Corrupt Organization
- 480 Consumer Credit
- 485 Telephone Consumer Protection Act (TCPA)
- 490 Cable/Satellite TV
- 850 Securities/Commodities/Exchange
- 896 Arbitration
- 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- 950 Constitutionality of State Statutes
- 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
<table>
<thead>
<tr>
<th>G. Habeas Corpus/2255</th>
<th>H. Employment Discrimination</th>
<th>I. FOIA/Privacy Act</th>
<th>J. Student Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>320 Habeas Corpus – General</td>
<td>422 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)</td>
<td>895 Freedom of Information Act</td>
<td>152 Recovery of Defaulted Student Loan (excluding veterans)</td>
</tr>
<tr>
<td>350 Motion/Vacate Sentence</td>
<td><em>If pro se, select this deck</em></td>
<td>890 Other Statutory Actions (if Privacy Act)</td>
<td><em>If pro se, select this deck</em></td>
</tr>
<tr>
<td>463 Habeas Corpus – Alien Detainee</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>K. Labor/ERISA (non-employment)</th>
<th>L. Other Civil Rights (non-employment)</th>
<th>M. Contract</th>
<th>N. Three-Judge Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>710 Fair Labor Standards Act</td>
<td>441 Voting (if not Voting Rights Act)</td>
<td>110 Insurance</td>
<td>441 Civil Rights – Voting (if Voting Rights Act)</td>
</tr>
<tr>
<td>720 Labor/Mgmt. Relations</td>
<td>443 Housing/Accommodations</td>
<td>120 Marine</td>
<td></td>
</tr>
<tr>
<td>740 Labor Railway Act</td>
<td>440 Other Civil Rights</td>
<td>130 Miller Act</td>
<td>150 Recovery of Overpayment &amp; Enforcement of Judgment</td>
</tr>
<tr>
<td>790 Other Labor Litigation</td>
<td>446 Americans w/Disabilities – Other</td>
<td>150 Recovery of Overpayment of Veteran’s Benefits</td>
<td>160 Stockholder’s Suits</td>
</tr>
<tr>
<td></td>
<td></td>
<td>196 Franchise</td>
<td></td>
</tr>
</tbody>
</table>

**V. ORIGIN**

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multi-district Litigation
- 7 Appeal to District Judge from Mag. Judge
- 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

Declaratory and injunctive relief under the FOIA, as amended, and as codified at 5 U.S.C. § 552 and 28 U.S.C. § 1331

**VII. REQUESTED IN COMPLAINT**

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND $
- JURY DEMAND: Check YES only if demanded in complaint

**VIII. RELATED CASE(S), IF ANY**

(See instruction)

- YES
- NO

If yes, please complete related case form

**DATE:** 3/18/2024

**SIGNATURE OF ATTORNEY OF RECORD**

---

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**

Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

1. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.

2. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.

3. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.

4. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.

5. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GEORGE M. CLARKE, III.

Plaintiff

v.

INTERNAL REVENUE SERVICE

Defendant

Civil Action No. 1:24-cv-00783

SUMMONS IN A CIVIL ACTION

To: (Defendant’s name and address)

GEORGE M. CLARKE
815 Connecticut Ave., N.W.
Washington, D.C. 20006

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

INTERNAL REVENUE SERVICE
1111 Constitution Avenue N.W.
Washington, D.C. 20224

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: __________________________

Signature of Clerk or Deputy Clerk
This summons for (name of individual and title, if any) ________________________________ was received by me on (date) ________________________________ .

☐ I personally served the summons on the individual at (place) ________________________________ on (date) ________________________________ ; or

☐ I left the summons at the individual’s residence or usual place of abode with (name) ________________________________ , a person of suitable age and discretion who resides there, on (date) ________________________________ , and mailed a copy to the individual’s last known address; or

☐ I served the summons on (name of individual) ________________________________ , who is designated by law to accept service of process on behalf of (name of organization) ________________________________ on (date) ________________________________ ; or

☐ I returned the summons unexecuted because ________________________________ ; or

☐ Other (specify): ________________________________ .

My fees are $ ____________ for travel and $ ____________ for services, for a total of $ ____________ .

I declare under penalty of perjury that this information is true.

Date: ________________________________

Server’s signature

Printed name and title

Server’s address

Additional information regarding attempted service, etc: