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Department of the Treasury
Internal Revenue Service

25.5.7

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EFFECTIVE DATE

(04-23-2025)

PURPOSE

- (1) This transmits a revision to IRM 25.5.7, Summons, Special Procedures for John Doe Summonses.

MATERIAL CHANGES

- (1) Material changes are reflected by the following table.

Section	Change
IRM 25.5.7.1.2	Editorial change moving information about the requirement of US District Court approval to issue a John Doe summons moved from the Internal Controls Section, Roles and Responsibilities, to The Internal Controls section, Authority.
IRM 25.5.7.1.3	Editorial updates to clarify the Internal Controls section Roles and Responsibilities and update links.
IRM 25.5.7.1.4	Editorial updates to the Internal Controls section Program Management and Review.
IRM 25.5.7.1.5(3)	Editorial update to correct the link to IRM 34.1, CCDM, Jurisdiction of the District Courts.
IRM 25.5.7.1.7	Editorial changes updating links to the Taxpayer Bill of Rights (TBOR) and the Summons Knowledge Base.
IRM 25.5.7.2	Editorial update to correct the link to IRM 34.6.3.3.2, CCDM, Referrals through the Office of the Associate Chief Counsel (Procedure & Administration) and replaced “examiner” with “IRS employee”.
IRM 25.5.7.4.1(2)	Editorial changes adding example tags.
IRM 25.5.7.4.2(6)	Editorial changes adding example tags.

Section	Change
Throughout	Editorial updates correcting the link to IRM 1.2.2.15.1, Delegation Order 25-1, Summonses, Oaths, Certifications and Related Functions.
Throughout	Editorial updates changing the BOD name of Wage & Investment (W&I) to Taxpayer Services (TS).
Throughout	Editorial changes, formatting, IRM and IRC reference corrections.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 25.5.7 dated June 04, 2020.

AUDIENCE

All operating divisions and functions

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Small Business /Self Employed

25.5.7

Special Procedures for John Doe Summonses

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25.5.7.1
(06-04-2020)
Program Scope and Objectives

- (1) **Purpose:** This IRM provides instructional procedures related to John Doe summonses.
- (2) **Audience:** All IRS employees conducting investigations that are benefited by the issuance of John Doe summonses.
- (3) **Policy Owner:** Director, Collection Policy, SB/SE.
- (4) **Program Owner:** Collection Policy, Enforcement SB/SE.
- (5) **Primary Stakeholders:** The primary stakeholders include Counsel, Collection, Examination and Criminal Investigation, (CI).
- (6) **Program Goals:** When an investigation requires information pertaining to the activities of an unidentified person or an ascertainable group or class of persons, a “John Doe” summons may be useful. By following this IRM, employees will understand the appropriate use of the John Doe summons, and the legal and procedural requirements for such summons issuance.

25.5.7.1.1
(06-04-2020)
Background

- (1) There are times when the IRS must investigate violations, or potential violations, of internal revenue law by a person, group or class of persons without identifying a specific individual. A John Doe summons is a summons that does not identify the person with respect to whose liability the summons is issued. The Internal Revenue Code authorizes the IRS to issue a John Doe summons pursuant to an investigation of a specific, unidentified person or an ascertainable group or class of persons. See IRC 7609(f).
- (2) With a normal summons, the IRS seeks information about a specific taxpayer whose identity is known. In contrast, a John Doe summons allows the IRS to obtain the names, requested information and documents concerning all taxpayers in a certain group. A John Doe summons can be a useful tool when trying to obtain information like a list of investors in a certain tax shelter, owners of tax-exempt bonds, or account holders at a financial institution.

25.5.7.1.2
(06-04-2020)
Authority

- (1) IRC 7609(c)(3) and IRC 7609(f) provide the IRS with John Doe summons authority.
- (2) The authority to issue John Doe summonses is limited to individuals who are specifically authorized by Delegation Order 25-1. See IRM 1.2.2.15.1, Delegation Order 25-1, Summonses, Oaths, Certifications and Related Functions.
- (3) US District Court approval is required to serve a John Doe summons. See IRM 25.5.7.2, Procedures.

25.5.7.1.3
(06-04-2020)
Roles and Responsibilities

- (1) The Director Headquarters Collection is the executive responsible for providing policy and guidance for IRS employees and ensuring consistent application of policy, procedures, and tax law to effect tax administration while protecting taxpayer rights. See IRM 1.1.16.3.3, Headquarters Collection, for additional information.
- (2) The Director Collection Policy reports to the Director Headquarters Collection, and is responsible for the delivery of policy and guidance that impacts the summons program. See IRM 1.1.16.3.3.1, Collection Policy, for additional information.

- (3) The Program Manager Enforcement reports to the Director, Collection Policy and is responsible for providing policy and procedural guidance on specialized processes to IRS employees. See IRM 1.1.16.3.3.1.2, Enforcement, for additional guidance.
- (4) Paragraph (3) in Delegation Order 25-1, lists the individuals who are authorized to issue John Doe summonses. See IRM 1.2.2.15.1, Delegation Order 25-1, Summonses, Oaths, Certifications and Related Functions.
- (5) Requests for US District Court approval to serve John Doe summonses are submitted to Area or Associate Area Counsel. Counsel reviews these requests for legal sufficiency and appropriate requests are referred to the Department of Justice (DOJ). See IRM 25.5.7.2, Procedures. DOJ will file an **ex parte** proceeding in US District Court requesting permission for the IRS to serve the John Doe summons. See IRM 25.5.7.4, Statutory Requirements For a Valid John Doe Summons.

25.5.7.1.4
(06-04-2020)
**Program Management
and Review**

- (1) In general, the IRS issues summonses only when the taxpayer (or other witness) will not produce the desired records or other information voluntarily. In contrast, a John Doe summons is issued to investigate violations or potential violations of internal revenue law when the specific individuals are not known. John Doe summonses require US District Court approval, therefore reports associated with these cases are maintained by the Office of Chief Counsel.

25.5.7.1.5
(06-04-2020)
Program Controls

- (1) The submission of a pre-approval request to Area or Associate Area Counsel and the requirement for approval, pursuant to Delegation Order 25-1, provide oversight to the John Doe summons program. See IRM 25.5.7.2, Procedures and IRM 1.2.2.15.1, Delegation Order 25-1, Summonses, Oaths, Certifications and Related Functions.
- (2) Once a summons is served, a copy of the original Page 1 of the summons labeled "Original" is maintained. The original summons is needed when referring a summons for enforcement. See IRM 25.5.7.3.6, Enforcement of a John Doe Summons and IRM 25.5.10, Enforcement of Summons.
- (3) IRS Counsel maintains procedures regarding US District Court matters in IRM 34.1, Chief Counsel Directives Manual (CCDM), Jurisdiction of the District Courts.
- (4) John Doe summons requests processed from Collection are processed through CEASO. See IRM 25.5.7.2, Procedures.

25.5.7.1.6
(06-04-2020)
**Definitions and
Acronyms**

- (1) The table below lists commonly used acronyms and their definitions.

Acronyms

Acronyms	Definition
CCDM	Chief Counsel Directives Manual
CI	Criminal Investigation
CEASO	Civil Enforcement Advice & Support Operations
DOJ	Department of Justice

Acronyms	Definition
IRC	Internal Revenue Code
IRS	Internal Revenue Service
LB&I	Large Business and International
SB/SE	Small Business/Self Employed
TBOR	Taxpayer Bill of Rights
TS	Taxpayer Services, <i>formerly Wage & Investment</i>

25.5.7.1.7
(06-04-2020)

Related Resources

- (1) IRM 25.5, Summons, provides guidelines for all IRS functions in one multifunctional handbook. The sections are:
 - IRM 25.5.1, Introduction
 - IRM 25.5.2, Preparation
 - IRM 25.5.3, Procedures
 - IRM 25.5.4, Examination of Books and Witnesses
 - IRM 25.5.5, Summons for Taxpayer Records and Testimony
 - IRM 25.5.6, Summonses on Third Party Witnesses
 - IRM 25.5.7, Special Procedures for John Doe Summonses
 - IRM 25.5.8, Use of Summons Special Applications
 - IRM 25.5.9, Fees and Costs for Summoned Witnesses
 - IRM 25.5.10, Enforcement of Summons
- (2) The basic legal concepts governing the use and enforcement of administrative summonses can be found in IRM 5.17.6, Legal Reference Guide for Revenue Officers, Summonses.
- (3) The Taxpayer Bill of Rights (TBOR) lists rights that already exist in the tax code, putting them in simple language and grouping them into 10 broad categories. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see *Taxpayer Bill of Rights* and Policy Statement 1-236 in IRM 1.2.1.2.36.
- (4) Additional summons guidance can be found on the *Summons Knowledge Base*.

25.5.7.2
(06-04-2020)

Procedures

- (1) A John Doe summons can only be served after approval by a US District Court. Therefore, the IRS must never serve a “friendly” John Doe summons even though a prospective summoned party may request one as a condition to providing information to the IRS. See IRM 25.5.3.2(4), Service of Summons, for a definition of “friendly summons”. Serving a John Doe summons without court approval violates the statute and will jeopardize the investigation.
- (2) Submit a written request for pre-issuance approval of a John Doe summons to Area or Associate Area Counsel, as appropriate. The summons request should state the pertinent facts and circumstances that justify seeking court approval to serve the summons and include information to satisfy each of the statutory requirements contained in IRC 7609(f). Work closely with Area or Associate

Area Counsel on a John Doe summons request. It is important to obtain Counsel's input and assistance to develop a successful John Doe summons. In the rare event a John Doe summons would involve Collection, the request for a John Doe summons should be routed through CEASO before sending to Associate Area Counsel for final review and approval.

- (3) Discuss the wording to be used in the John Doe summons with Area or Associate Area Counsel. Use Form 2039, Summons, and provide a draft copy to Counsel with the pre-issuance request. Area or Associate Area Counsel will work with the IRS employee to perfect the summons, the request and any other documentation needed to support issuance of the summons. Once perfected, Counsel will forward the John Doe summons request for approval.
- (4) Area or Associate Area Counsel will prepare a referral letter on behalf of Chief Counsel to DOJ containing the law and facts justifying court approval. This referral letter and proposed summons will be submitted by Associate Area Counsel to Associate Chief Counsel (Procedure & Administration) for its review and approval per IRM 34.6.3.3.2, CCDM, Referrals through the Office of the Associate Chief Counsel (Procedure & Administration).
- (5) If Associate Area Counsel decides not to forward the matter to Associate Chief Counsel (Procedure & Administration) for referral to the DOJ to seek approval for service, the matter should be discussed with the Field and CEASO Territory Managers.
- (6) If an agreement cannot be reached, Counsel will prepare and forward a memorandum to the Area Director setting forth the unresolved issues.
- (7) If the Area Director does not agree with Counsel's conclusions, the matter will be referred to the Director, Field Operations (CI or LB&I), or the Director, Exam or Collection, or Director, Compliance, (TS), who will explore with the Associate Chief Counsel, (Procedure & Administration), ways of reaching an agreement on future actions concerning the John Doe summons.
- (8) John Doe summonses are an important investigative tool. To be used effectively, extensive coordination is needed with local Counsel and the DOJ. Coordination at each level of the process ensures compliance with the Internal Revenue Code and ensures nothing will jeopardize the investigation.

25.5.7.3
(09-01-2006)

General Information

- (1) The following paragraphs provide basic background information about John Doe summonses.

25.5.7.3.1
(06-04-2020)

Restricted Authority To Issue John Doe Summonses

- (1) A John Doe summons can only be issued by high ranking individuals who are specifically authorized to do so in Delegation Order No. 25-1. Special agents, revenue agents and revenue officers are not authorized to issue these summonses. When considering a John Doe summons, consult IRM 1.2.2.15.1, Delegation Order 25-1, Summonses, Oaths, Certifications and Related Functions.

25.5.7.3.2
(06-04-2020)

Necessary Purpose

- (1) The purpose of a John Doe summons must be to investigate the tax liability of a specific unidentified taxpayer, (or a group of such taxpayers), even if a secondary purpose is to gather information for research purposes.

- (2) The IRS should no longer be in the information-gathering or research stage of a project when it decides to seek court authorization to serve a John Doe summons. The project research should be sufficiently developed to enable the IRS to identify a specific tax compliance problem. The IRS should be prepared to investigate the tax liabilities of specific taxpayers based on the information received from the John Doe summons. A John Doe summons cannot be used to conduct a “fishing expedition”. See IRM 25.5.7.4, Statutory Requirements For a Valid John Doe Summons.

25.5.7.3.3
(02-18-2016)
Dual-Purpose Summons

- (1) A dual-purpose summons is a summons issued with the purposes of investigating both the tax liability of a named taxpayer and the tax liability of other, unnamed parties. In some investigations, it may be possible for the IRS to obtain the identities of taxpayers without issuing a John Doe summons. If the IRS is conducting an investigation of a known taxpayer, (such as a tax shelter promoter), who can identify an unknown taxpayer or class of taxpayers, (such as the shelter investors), and the identities of the unknown taxpayers are relevant to the investigation of the known taxpayer, the IRS can issue a standard, non-John Doe summons, as part of the investigation of the known taxpayer. The IRS can require the production of the identities of the unknown taxpayers. This technique is only acceptable where discovering the identities of the unknown taxpayers is relevant to the investigation of the known taxpayer. A dual-purpose summons should be considered before issuance of a John Doe summons.
- (2) The Supreme Court has held “that where, pursuant to 7602, the IRS serves a summons on a known taxpayer with the dual purpose of investigating both the tax liability of that taxpayer and the tax liabilities of unnamed parties, it need not comply with the requirements for John Doe summonses set out in 7609(f), as long as all the information sought is relevant to a legitimate investigation of the summoned taxpayer.” *Tiffany Fine Arts, Inc v. United States*, 469 U.S. 310, 324 (1985); Section 7609.

25.5.7.3.4
(02-18-2016)
No Notice Required

- (1) A John Doe Summons is exempt from third party notice requirements per IRC 7609(c)(3). Advance notice by the IRS to the unknown taxpayers constituting the John Doe class is not possible.

25.5.7.3.5
(11-22-2011)
Suspension of Period of Limitations

- (1) Pursuant to IRC 7609(e)(2), if the summoned party’s response to the John Doe summons is not resolved six months after the date the summons is served, the period of limitations under IRC 6501 and IRC 6531 with respect to any person whose identity is sought, will be suspended in relation to the tax period or periods that are the subject of the summons, for the period:
 - a. Beginning on the date which is six months after the service of the summons, and
 - b. Ending with the final resolution of the summons response. See Treas. Reg. 301.7609-5(e)(3).
- (2) In the case of a John Doe summons in which any period of limitations has been suspended, the summoned party shall provide notice of such suspension to any person described in the John Doe summons per IRC 7609(i)(4). The content of the notification can be found in Treas. Reg. 301.7609-3(d)(2).

25.5.7.3.6
(06-04-2020)

Enforcement of a John Doe Summons

- (1) The enforcement of a John Doe summons is essentially the same as other IRS summonses as discussed in IRM 25.5.10, Enforcement of Summons. However, a John Doe summons has already been referred to DOJ and approved by a US District Court prior to issuance. Therefore, in the event that a John Doe summons requires enforcement, contact Area or Associate Area Counsel for guidance.

25.5.7.4
(06-04-2020)

Statutory Requirements For a Valid John Doe Summons

- (1) **US District Court Approval Required Before Serving a John Doe Summons.** Before a John Doe summons can be served, it **must** be approved for service by a US District Court in an “ex parte” proceeding. The IRS can never serve a “friendly” John Doe summons without obtaining court approval. Doing so will violate IRC 7609 and jeopardize the investigation.
- (2) **Three Additional Requirements for Approval.** A John Doe summons must meet the standard four-part test that applies to all other summonses. See IRM 25.5.4.5, Limitations on Authority to Summon. IRC 7609(f) adds three additional requirements that a John Doe summons must meet before it will qualify for US District Court approval. These three requirements are identified below and further analyzed in following subsections:
 - a. The summons must relate to the investigation of a **particular person or ascertainable group or class of persons**.
 - b. The IRS must have a **reasonable basis** for believing that such person or group or class of persons may fail or may have failed to comply with any provision of the tax laws.
 - c. The information and identities sought to be obtained from summoned records **must not be readily available from other sources**.
- (3) Section 1204 of the Taxpayer First Act, PL 116-25, amended IRC 7609(f) to add flush language consistent with the legislative history to IRC 7609 that a John Doe summons should not be used for a “fishing expedition”. The new flush language states that information sought must be narrowly tailored to information that pertains to the failure, or potential failure, of the unidentified person, group or class of persons under investigation to comply with one or more provisions of the internal revenue law. This flush language is not an expressed additional requirement for a John Doe summons, but a condition that applies to the three requirements for a John Doe summons. Discuss with Area or Associate Area Counsel the wording to be used in the summons to ensure all requirements are met.

25.5.7.4.1
(06-04-2020)

Ascertainable Group or Class of Persons

- (1) The unidentified person, group or class of persons under investigation, and the activity or transaction under investigation must be described with particularity on the line of the summons that begins with “In the matter of”. The phrase “group or class” refers to a group or class of persons who have engaged in specifically described transactions or activities that are common to all persons or entities in the group or class. Generally, the common activities or transactions of the group or class of persons will directly relate to compliance with the internal revenue laws.
- (2) The following provides examples of the **In the matter of** section for John Doe summons:

Example: (1) A summons is issued to a bank to obtain the names of bondholders who purchased bonds issued by a county’s housing authority for a specific construction project. The summons should read: **In the matter**

of the record and beneficial owners of County Housing Authority Revenue Bonds, Series 2017 (Blackacre Housing Project).

Example: (2) A summons is issued to Dealer X to obtain the names of persons who sold metal to the dealer for the period January 1, 2018 through December 31, 2018. The summons should read: **In the matter of persons who sold metal to Dealer X during the period from January 1, 2018 through December 31, 2018.**

Example: (3) A summons is issued to ABC University to obtain the names of persons who made in-kind contributions to the university during the period January 1, 2018 through December 31, 2019. The summons should read: **In the matter of all persons who made in-kind contributions to ABC University for the period January 1, 2018 through December 31, 2019.**

Example: (4) A summons is issued to Bank XY of Pine County to obtain the names of those taxpayers who transferred funds to the Bank of ABC Islands during the period January 1, 2017 through December 31, 2018. The Bank XY of Pine County is a US clearing bank that handles outbound transfers. The summons should read: **In the matter of the Tax Liabilities of John Does, United States taxpayers who, at any time during the period of January 1, 2017 through December 31, 2018, transferred funds to the Bank of ABC Islands through Bank XY of Pine County.**

Example: (5) A summons is issued to the XYZ Barter Exchange to obtain the names and transaction records of all members of the exchange for the period of January 1, 2017 through December 31, 2018. The summons should read: **In the matter of all members of the XYZ Barter Exchange during the period of January 1, 2017 through December 31, 2018.**

25.5.7.4.2
(06-04-2020)
Reasonable Basis

- (1) The IRS must establish a reasonable basis for suspecting noncompliance with the tax laws by the unidentified person or the group or class of unidentified persons that are the subject of the investigation. The IRS need not establish probable cause for suspecting noncompliance or meet any other evidentiary standard greater than a reasonable basis for suspecting noncompliance. The IRS can establish per IRC 7609(f)(2) that it has reasonable basis for believing that an individual or a group or class may have or will fail to comply with the tax laws by showing:
 - a. The unidentified person or group has engaged in or is engaging in a transaction or transactions that the IRS has determined to be noncompliant with the tax laws, or
 - b. The unidentified person or group has engaged in or is engaging in an activity or course of actions that is of such a nature that there is a likelihood of underreporting or other type of noncompliance with the tax laws.
- (2) **Common Financial Transaction or Activity Related to Tax Law Compliance.** A John Doe summons will usually not be appropriate unless the unidentified group or class of persons has engaged in a common financial transaction or an activity directly related to compliance with the tax laws. For

example, a group that participates in financial activities not susceptible to detection, or designed to avoid detection, or to defeat the payment of taxes may be a candidate for a John Doe summons. On the other hand, members of a group whose only common characteristics relate to non-tax factors, such as political or ideological beliefs, or memberships in trade or professional organizations, should not normally be the subject of a John Doe investigation.

- (3) **Statistical Data Needed as Evidence.** To determine whether there is a high degree of noncompliance, the IRS should attempt to investigate or canvass as many of the group members that it can identify before considering a John Doe summons. The information gathered from these investigations or compliance checks will support the Government's position that a reasonable basis exists to believe that the group or class of persons may have failed to comply with the tax laws. Information or statistical data from investigations of group members from other parts of the country may be used to support a John Doe summons issued to investigate members in a particular area.
- (4) **Statistical Data Not Needed as Evidence.** While canvassing or performing compliance checks on the identified members of a group is generally useful in any John Doe summons case, there may be situations where, in the exercise of sound judgment, such steps can be deemed unnecessary. For example, where the IRS is investigating the promotion of a particular financial transaction and the promoters have taken a position in the prospectus or other document that is contrary to the IRS's announced position, it is not necessary to canvass the identified members to learn whether they did in fact follow the promoters' tax advice. The reasonable basis standard is met by the promoters' documents. Also, for example, if a person or persons deposit a large amount of high denomination currency in decrepit condition within a period of a few weeks, the IRS need not try to obtain more factual background on the unidentified person or persons. The inherently suspicious nature of the deposits meets the reasonable basis standard and makes appropriate a John Doe summons directed to the bank where the deposits took place.
- (5) **Statistical Evidence Needed Where a Common Financial Transaction is Absent.** If the IRS has not discovered a common financial transaction suggesting noncompliance with tax laws in a group or class of persons, a John Doe summons may still be appropriate if investigations of known taxpayers in the group produce a significant statistical sample showing a very compelling degree of noncompliance. (A statistical sample that shows 50 percent or more of noncompliance indicates a high degree of noncompliance. While this is not intended as a bright-line test, to the extent the percentage is less than 50 percent, it will become more difficult to argue that a reasonable basis exists, and Area Counsel should consider whether a John Doe summons is appropriate). A John Doe summons should not be considered where a common financial transaction suggesting noncompliance does not exist unless the IRS has first gathered statistical data from identified group members establishing a factual basis for issuing the summons.
- (6) The following examples illustrate what evidence satisfies the reasonable basis requirement of IRC 7609(f)(2) and when statistical data must be used:

Example: (1) Continuation of the scenario in example 1 in IRM 25.5.7.4.1 (2), Ascertainable Group or Class of Persons:
The IRS seeks the US District Court's authorization to serve a John Doe summons on a bank to obtain the names of those persons who purchased bonds issued by a county's housing authority for a certain

construction project. Specifically, the summons seeks the names of the record and beneficial owners of the bondholders of the County Housing Authority Revenue Bonds, Series 2017 (Blackacre Housing Project). The IRS can satisfy the reasonable basis standard with the following fact pattern. The IRS has learned that the county did not use the bond proceeds to build the advertised housing project. Instead, the proceeds were used to acquire higher yielding investments that generated taxable interest income to the bondholders. The prospectus or other public documents show that the bonds were advertised as tax-exempt municipal bonds. Thus, the unidentified bondholders have engaged in a transaction based on a promoter's position that the IRS has rejected. This is enough to establish a reasonable basis for believing that an ascertainable group, the purchasers of County Housing Authority Revenue Bonds, Series 2017, (Blackacre Housing Project), engaged in a transaction that is not in compliance with the tax laws, (the non-reporting of taxable interest income). While statistical data gathered from identified group members may be helpful, it is not necessary to establish a reasonable basis in this case, because the IRS has rejected the promoter's position.

Example: (2) Continuation of the scenario in example 2 in IRM 25.5.7.4.1 (2), Ascertainable Group or Class of Persons:

The IRS seeks the US District Court's authorization to serve a John Doe summons on Dealer X, a metal buyer, to obtain the names of persons who sold metal to him during the period January 1, 2018 through December 31, 2018. The IRS can satisfy the reasonable basis standard with the following fact pattern. Metal dealers are not required to issue Forms 1099 to the persons from whom they purchase metal, (the metal suppliers). As a result, the IRS cannot readily detect metal suppliers that underreport income from these sales. Investigations of 40 metal suppliers who sold metal to Dealer X in prior taxable years showed that 30 had underreported their income. Also, the IRS has gathered statistical evidence from investigations of other dealers, which shows a high degree of underreporting by the metal suppliers.

A John Doe summons is appropriate because the common activity of the group members, (sales of metal to Dealer X), is not reportable to the IRS on an information return and therefore not susceptible to detection, indicating a likelihood of noncompliance with the tax laws. In addition, investigations of known taxpayers in the group show a very high degree of underreporting. It is necessary for the IRS to gather statistical data from identified group members to meet the reasonable basis test because the common financial transaction, while not susceptible to detection, is not contrary to any IRS announced positions.

Example: (3) Continuation of the scenario in example 3 in IRM 25.5.7.4.1 (2), Ascertainable Group or Class of Persons:

The IRS seeks the US District Court's authorization to serve a John Doe summons on ABC University to obtain the names of persons who made in-kind contributions to the University from January 1, 2018 through December 31, 2019. The common financial transaction is the donation of in-kind gifts to ABC University. Investigations of known taxpayers who had made this type of gift to the University showed that 140 out of 160 taxpayers had overvalued their gifts.

A John Doe summons would be appropriate. The group's common

financial transaction is not contrary to any IRS announced positions, nor does it suggest that the group members were in any way noncompliant with the internal revenue laws. Therefore, the statistical data gathered from the identified members of the group showing a very high degree of noncompliance is necessary to meet the “reasonable basis” requirement.

Example: (4) Continuation of the scenario in example 4 in IRM 25.5.7.4.1 (2), Ascertainable Group or Class of Persons:

The IRS seeks the US District Court’s authorization to serve a John Doe summons on Bank XY of Pine County to obtain the names of those taxpayers that transferred funds to the Bank of ABC Islands for the period of January 1, 2017 through December 31, 2018. The IRS learned from an offshore voluntary disclosure initiative that several U.S. taxpayers with ownership and/or control of foreign financial accounts at Bank of ABC Islands failed to report interest and other income earned on their accounts with this bank on their original returns. From interviewing these known customers of Bank of ABC Islands, the IRS learned that bank employees told these customers the bank would not be reporting any income from or the existence of their foreign accounts to the IRS. Controlling a foreign financial account is not contrary to IRS announced positions, but a John Doe summons is appropriate because tax avoidance is frequently the purpose for the use of offshore accounts in a tax haven country. Also, the IRS is aware of tax compliance problems with known U.S. customers of Bank of ABC Islands. This bank’s employees apparently encouraged non-compliance. The information and identities sought from summoned records are not readily attainable from other sources, but are attainable from Bank XY of Pine County.

Example: (5) Continuation of the scenario in example 5 in IRM 25.5.7.4.1 (2), Ascertainable Group or Class of Persons:

The IRS seeks US District Court authorization to serve a John Doe summons on the XYZ Barter Exchange to obtain the names and transaction records of all members of the exchange for the period of January 1, 2017 through December 31, 2018.

Members of XYZ Barter Exchange engage in income producing activities that are not susceptible to detection and a likelihood of noncompliance with the tax laws exists. In addition, the IRS has conducted investigations of other barter exchanges, and these investigations reveal that approximately 75 per cent of those examined underreported their income. A John Doe summons would be appropriate.

Example: (6) The IRS wishes to use a John Doe summons to obtain the names and social security numbers of all members of a trade association which it believes includes non-filing members. There is no financial transaction or activity related to compliance with the tax laws that is common to members of the group. However, the IRS has statistical data from investigations of known taxpayers in the group which shows that six percent of the group has failed to file income tax returns, which percentage is about the same as the national non-filing rate.

The IRS is not entitled to use a John Doe summons to obtain names and social security numbers of the group members. Since there is no financial activity or transaction related to compliance with the tax laws that is common to members of the group, except membership in the group, there is no reasonable basis to believe that the group as a whole

has failed to file income tax returns. The statistical data of six percent is not compelling and does not indicate that the group or class of persons failed to comply with the tax laws.

25.5.7.4.3
(09-01-2006)
**Information Is Not
Readily Available**

- (1) The information to be obtained, including the identities of the John Does, is not readily available from other sources when the information cannot be obtained from IRS records or public sources such as telephone directories, professional directories, or reporting services, and the information cannot be obtained voluntarily from entities such as state agencies and industry or professional organizations. The fact that it may be more difficult administratively for the IRS to conduct the investigation by relying on its own records or on public sources may not satisfy the statutory requirement. The IRS must show that retrieving the data from other sources will be impractical. This may be shown by specifying the additional staff hours or procedures which will be necessary, and the significant impact on IRS normal operations if the information cannot be obtained by the summons.
- (2) Where some, but not all, of the information is readily available from public sources, the IRS must establish that the public sources are not complete or not comprehensive, and that the summoned data is necessary to ensure a thorough investigation of all taxpayers in the group under investigation.

