

ID: CCA\_2012090715501220

Number: **201248020**

Release Date: 11/30/2012

Office:

UILC: 6331.00-00, 6331.11-00

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**From:**

**Sent:** Friday, September 07, 2012 3:50:14 PM

**To:**

**Cc:**

**Subject:** RE: Levies

I got confirmation from the appropriate practice group: While the Service is sensitive to cases potentially raising the Religious Freedom Restoration Act, the RFRA does not bar application of the tax laws or collection remedies (such as an administrative levy against a parsonage allowance in your case). Although not within your Circuit, *United States v. Indianapolis Baptist Temple*, 224 F.3d 627, 630 (7th Cir. 2000) provides a general summary of the issue:

Under RFRA, laws that substantially burden the free exercise of religion cannot be enforced unless the burden furthers a compelling government interest and is the least restrictive means of furthering that interest. 42 U.S.C. § 2000bb-1. In several pre- *Smith* Free Exercise challenges to the application of federal tax laws, the Supreme Court and various courts of appeals concluded both that maintaining a sound and efficient tax system is a compelling government interest and that the difficulties inherent in administering a tax system riddled with judicial exceptions for religious employers make a uniformly applicable tax system the least restrictive means of furthering that interest. See *Hernandez v. Commissioner*, 490 U.S. 680, 698-700, 109 S.Ct. 2136, 104 L.Ed.2d 766 (1989) (challenge to federal income tax); *United States v. Lee*, 455 U.S. 252, 258-60, 102 S.Ct. 1051, 71 L.Ed.2d 127 (1982) (challenge to social security tax); *South Ridge Baptist Church v. Industrial Comm'n*, 911 F.2d 1203, 1206-10 (6th Cir.1990) (challenge to premiums required by workers' compensation program); *Bethel Baptist Church v. United States*, 822 F.2d 1334, 1338-39 (3d Cir.1987) (challenge to social security tax). The cases that have been decided under RFRA reach the same conclusion. See *Browne v. United States*, 176 F.3d 25, 26 (2d Cir.1999) (challenge to federal income tax); *Adams v. Commissioner*, 170 F.3d 173, 175-80 (3d Cir.1999) (same); *Droz v. Commissioner*, 48 F.3d 1120, 1122-25 (9th Cir.1995) (challenge to social security tax). We find this authority persuasive and see no reason to reach a different conclusion.

In keeping with the principles stated above, the court in *U.S. v. Philadelphia Yearly Meeting of the Religious Society of Friends*, 322 F.Supp.2d 603 (E.D. Pa. 2004) concluded that, under RFRA, the levy source (the Society of Friends) was personally liable for failure to honor a levy to collect the taxes of an employee-member. The court found that, while under the facts of the case there was a substantial burden on the free exercise of religion, the levy furthered, by the least restrictive means, the government's compelling interest in quickly and inexpensively collecting the member's unpaid taxes. 322 F.Supp.2d at 611.