

## PERSONS WHO MAY BE SUMMONSED

The following persons may be summoned under the authority of IRC section 7602:

1. The person liable for the tax.
2. An officer or employee of that person.
3. A person having possession, custody, or care of books of account containing entries relating to the business of the person liable for the tax or required to perform the act, Note: A "3rd party recordkeeper" does not include all 3rd parties having records. "Third party recordkeepers" are specifically defined in IRC 7609(a)(3).
4. Any other person the officer issuing the summons deems proper. In other words, you may issue a summons to any person who might have information or records that would assist the Service in determining a liability, making a return, or collecting a liability.

## CONSTITUTIONAL RIGHTS OF PERSONS SUMMONED

The information you seek using a summons generally is not used to develop a criminal case. Therefore, it is not mandatory to inform the person summonsed of this or her constitutional privilege against self-incrimination. In any case in which you believe there is criminal prosecution potential and a warning may be appropriate, contact your District Counsel for advice before serving the summons.

Despite the privilege against self-incrimination, information or evidence furnished voluntarily by a person summonsed may be used even though it is of an incriminatory nature. The mere fact that the person would not have appeared before you had it not been for the summons does not mean that his or her testimony or evidence was given under compulsion and is therefore inadmissible. Although the summonsed person is required to appear before you, the question is whether it can be shown clearly that he or she was not thereafter compelled to testify about incriminatory matters.

## CONSIDERATIONS BEFORE ISSUING A SUMMONS

You should consider several factors before you issue a summons:

1. Is the information you seek relevant to the completion of an assigned investigation? Is it reasonable to expect that the person to be summoned has this information?