

WHEN TO SERVE A SUMMONS

You will sometimes find that the service of a summons is the only way to get the information you need to close a case. A financial institution involved in a 100 percent penalty investigation, for example, usually requires a summons before it will release certain information and documents. At other times, the taxpayer's actions (refusing to return your calls, failing to meet scheduled due dates, for example) indicate the taxpayer's refusal to cooperate and the desirability of issuing a summons.

You can obtain the financial data to collect a delinquent liability by serving a summons requiring that the taxpayer produce certain books and records so that you can prepare a Collection Information Statement. You can obtain the necessary information and documents to have a Federal tax return prepared by requesting that the taxpayer produce those necessary documents. Since the taxpayer can't be compelled to prepare delinquent returns, it is only the information to prepare those returns that you are summoning.

When attempting to secure delinquent returns, set a reasonable deadline based on time needed for preparation and submission of returns, reasons for not filing, location and condition of records etc. Advise the taxpayer that if the deadline is not met, the Service will treat the failure to file as a refusal to comply with the law and the appropriate enforcement action will be taken. (that is serving a summons).

The following information should be obtained to the extent possible from a delinquent taxpayer on the first contact.

1. Present employment and approximate amount of current earnings and income tax withheld.
2. Type and location of employment and amounts or approximations of earnings, salary, wage, or other income received during the delinquent periods and income tax withheld.
3. Financial condition - assets and liabilities. Approximate values may be used as a measure of a taxpayer's net worth.
4. Names of persons who have custody or control of documents necessary for preparing returns.
5. Any other pertinent data of importance relating to the delinquency (for example, if employment tax returns are involved, such data as number of employees, names of corporate officers, and amounts and wages paid).