



Robert W. Wood

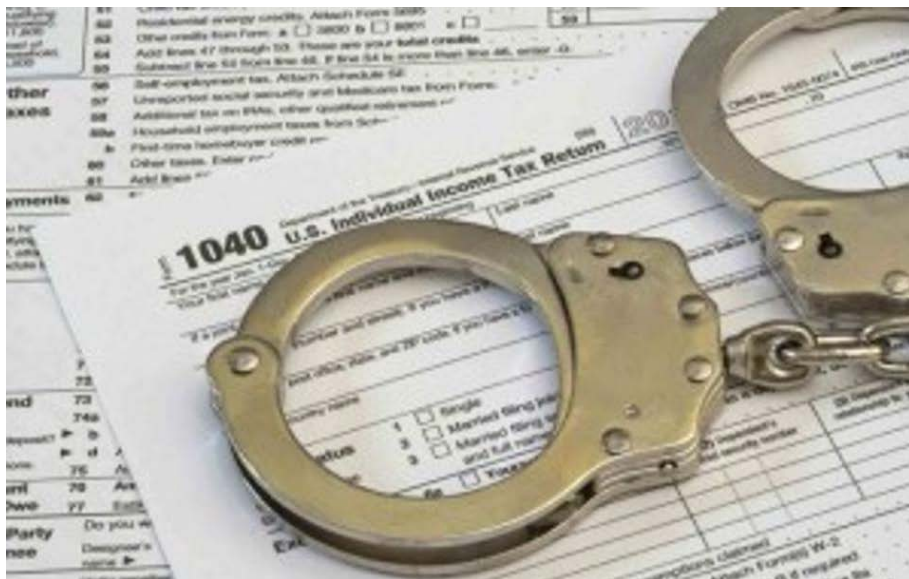
THE TAX LAWYER

TAXES 1/25/2017

IRS Hunts Debit Cards For Tax Evasion, As Court Approves John Doe Summons

The IRS has gone after tax evasion in Swiss and other offshore accounts, and has collected a staggering \$10 billion. Then, the IRS turned to virtual currencies like Bitcoin, after a [court allowed an IRS John Doe summons for bitcoin and other virtual currencies](#). Now, the IRS is going after some debit card use, too.

How does the IRS get on to you, you might wonder? If the IRS knows who you are, it can audit or investigate you. But increasingly, one important technique is the [John Doe Summons](#). In 2008, the lid came off the hushed world of Swiss banking when a judge allowed the IRS to [issue a John Doe summons to UBS](#) for information on U.S. taxpayers using Swiss accounts. Now, the IRS has turned to certain debit cards.



With a *normal* summons, the IRS seeks information about a specific taxpayer whose identity it knows. A John Doe summons allows the IRS to get the names of *all* taxpayers in a certain group. The IRS needs a judge to approve

it, but recent IRS success may lead to more. The IRS tells its own examiners to use a John Doe Summons only after trying other routes. The IRS Manual says it may be possible to obtain taxpayer identities *without* issuing a John Doe summons.

A federal court in Montana has authorized the IRS to serve a John Doe summons on Michael Behr of Bozeman, Montana, seeking information about U.S. taxpayers who may hold offshore accounts established by Sovereign Management & Legal LTD (SML), a Panamanian entity. The IRS wants records of U.S. taxpayers issued a Sovereign Gold Card debit card between 2005 and 2016 that could be used to access the funds and to evade U.S. taxes. U.S. taxpayers seeking to hide their offshore assets often utilize the services of offshore trusts and corporate service providers that open bank accounts, create corporations and other entities, and serve as nominee officers.

In its petition seeking the John Doe summons, the United States alleges that SML advertises various “packages” to allow taxpayers to hide their assets offshore. These packages include corporations owned by other entities (to include fake charitable foundations), all held in the name of nominee officers provided by SML. SML then opens bank accounts for these entities and provides debit cards in the name of the nominee to the taxpayer. By using such cards, taxpayers seek to access their offshore funds without revealing their identities.

The court found a reasonable basis for believing that U.S. taxpayers may be using the Sovereign Gold Card to violate federal tax laws. The Justice Department previously obtained a similar [order](#) from the U.S. District Court for the Southern District of New York, authorizing eight John Doe summonses on banks and other entities for information related to SML and its customers.

The recipient of a John Doe Summons is often between a rock and a hard place. The recipient may want—or be required to—protect its customers. But it also will not want trouble with the IRS. And fighting in court can be expensive and unproductive.

As occurred in the recent John Doe Summons served on Coinbase, there was no allegation that Coinbase has engaged in any wrongdoing in connection with its virtual currency exchange business. Rather, the IRS uses John Doe summonses to obtain information about possible violations of internal revenue laws by *others*, individuals whose identities are unknown. The debit card case is similar.

There may be court battles, and the IRS may not get the information it wants right away. Even when it does, it will take the IRS time to collate and process it. In the end, though, it is a good bet that the IRS will put the information it acquires to good use. That suggests that for offshore accounts users (and SML debit card holders) who have not yet made corrective filings with the IRS should consider it. Once it is too late, it is too late.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.