

# Bank Accounts

## Without A Social Security Number

January 29, 2004

I recently received an email from a Texas Author who requested information related to opening a bank account without a Social Security Number. Here is the text of that request...

I have an associate who is looking for information about the opening of a bank account without a SS #. If anyone can put their hands on that information, or point me in the right direction, please respond...

I responded and suggested that this was a form of discrimination by the bank and I suspected that if the individual in question were to begin litigation, the bank would fold and open the desired account(s). But a much better response was returned and in turn, the Texas Author forwarded it to everyone on his list. I was one such recipient. For those of you seeking such information, this has the potential to be very helpful. Here is the return...

Daniel,

Subject: BANK ACCOUNT NO S.S.NUMBER

Hi, Just wanted to drop you a line to let you know about a recent small victory in the no-SSN corner.

I recently tried to open a bank account with my local bank , and when they asked for a SSN, I informed them that I didn't have one. They flatly refused and said that without a SSN that they absolutely could NOT open an account of any kind. I then proceeded thus to convince them that they were in the wrong:

- 1) I informed them that I had terminated my SSN legally in accordance with 20 CFR 3 A7 404.1905 and
- 2) I informed them that the bank could not be held legally responsible by anyone for failing to obtain a SSN from me pursuant to 31 CFR 103.34(a)(1) and
- 3) I informed them that under the Internal Revenue Code Section 6041, that they were not even required to provide any taxpayer identification numbers on the Form 1099 that they file with the IRS at the end of the year, and
- 4) I informed them that pursuant to 26 CFR 301.6109-1(c) that they were under no legal obligation to obtain a SSN from me, and

5) I informed them that 42 USC 408 makes it a FELONY to use threat, duress, or coercion to try to force a person by fear or deceit to provide his SSN in an unlawful manner.

After a brief meeting with the banks controller and legal counsel, I received a phone call stating that I would be allowed to open a checking account. Please pass this information along to your readers, in hopes that it may help someone else who may find themselves in this situation.

Also included in the response are the sections of law to which the above references...

[Code of Federal Regulations]

[Title 20, Volume 2]

[Revised as of April 1, 2003]

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[CITE: 20CFR404.1902]

[Page 557-558]

## TITLE 20--EMPLOYEES' BENEFITS

### CHAPTER III--SOCIAL SECURITY ADMINISTRATION

#### PART 404--FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

##### 50- )--Table of Contents

##### Subpart T--Totalization Agreements

Sec. 404.1902 Definitions.

For purposes of this subpart--

Act means the Social Security Act (42 U.S.C. 301 et seq.).

**Agency** means the agency responsible for the specific administration of a social security system including responsibility for implementing an agreement; the Social Security Administration (SSA) is the agency in the U.S.

**Agreement** means the agreement negotiated to provide coordination between the social security systems of the countries party to the agreement. The term agreement includes any administrative agreements concluded for purposes of administering the agreement.

**Competent authority** means the official with overall responsibility for administration of a country's social security system including applicable laws and international social security agreements; the Commissioner of Social Security is the competent authority in the U.S.

**Period of coverage** means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as

equivalent under the social security system of the U.S. or under the social security system of the foreign country which is a party to an agreement.

**Residence or ordinarily resides**, when used in agreements, has the following meaning for the U.S. Residence or ordinarily resides in a country means that a person has established a home in that country intending to remain there permanently or for an indefinite period of time. Generally, a person will be considered to have established a home in a country if that person assumes certain economic burdens, such as the purchase of a dwelling or establishment of a business, and participates in the social and cultural activities of the community. If residence in a country is established, it may continue even though the person is temporarily absent from that country. Generally, an absence of six months or less will be considered temporary. If an absence is for more than six months, residence in the country will generally be considered to continue only if there is sufficient evidence to establish that the person intends to maintain the residence. Sufficient evidence would include the maintenance of a home or apartment in that country, the departure from the country with a reentry permit, or similar acts. The existence of business or family associations sufficient to warrant the person's return would also be considered.

**Social security system** means a social insurance or pension system which is of general application and which provides for paying periodic benefits, or the actuarial equivalent, because of old-age, death, or disability.

[44 FR 42964, July 23, 1979, as amended at 62 FR 38452, July 18, 1997]

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[Code of Federal Regulations]

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[Page 558]

## TITLE 20--EMPLOYEES' BENEFITS

### CHAPTER III--SOCIAL SECURITY ADMINISTRATION

#### PART 404--FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

##### 50- )--Table of Contents

##### Subpart T--Totalization Agreements

##### Sec. 404.1905 Termination of agreements.

Each agreement shall contain provisions for its possible termination. If an agreement is

terminated, entitlement to benefits and coverage acquired by an individual before termination shall be retained. The agreement shall provide for notification of termination to the other party and the effective date of termination.

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[Code of Federal Regulations]  
[Title 31, Volume 1]  
[Revised as of July 1, 2003]  
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[CITE: 31CFR103.34]

[Page 379-381]

## TITLE 31--MONEY AND FINANCE: TREASURY

### DEPARTMENT OF THE TREASURY

#### PART 103--FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS--Table of Contents

##### Subpart C--Records Required To Be Maintained

Sec. 103.34 Additional records to be made and retained by banks.

(a)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, and before October 1, 2003, or each deposit or share account opened with a bank after June 30, 1972, and before October 1, 2003, a bank shall, within 30 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 30-day period specified, the required identification, it shall nevertheless not be deemed to be in violation of this section if

(i) it has made a reasonable effort to secure such identification, and

(ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records

referred to in paragraphs (b) (11) and (12) of this section. The issuing bank can satisfy the record keeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction. Where a person is a non-resident alien, the bank shall also record the person's passport number or a description of some other government document used to verify his identity.

(2) The 30-day period provided for in paragraph (a)(1) of this section shall be extended where the person opening the account has applied for a taxpayer identification or social security number on Form SS-4 or SS-5, until such time as the person maintaining the account has had a reasonable opportunity to secure such number and furnish it to the bank.

(3) A taxpayer identification number required under paragraph (a)(1) of this section need not be secured for accounts or transactions with the following:

- (i) Agencies and instrumentalities of Federal, state, local or foreign governments;
- (ii) judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court;
- (iii) aliens who are (A) ambassadors, ministers, career diplomatic or consular officers, or (B) naval, military or other attaches of foreign embassies and legations, and for the members of their immediate families;
- (iv) aliens who are accredited representatives of international organizations which are entitled to enjoy privileges, exemptions and immunities as an international organization under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. 288), and the members of their immediate families;
- (v) aliens temporarily residing in the United States for a period not to exceed 180 days;
- (vi) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government;
- (vii) unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter,
- (viii) a person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual interest is less than \$10;
- (ix) a person opening a Christmas club, vacation club and similar installment savings programs provided the annual interest is less than \$10; and
- (x) non-resident aliens who are not engaged in a trade or business in the United States. In instances described in paragraphs (a)(3), (viii) and (ix) of this section, the bank shall,

within 15 days following the end of any calendar year in which the interest accrued in that year is \$10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

(4) The rules and regulations issued by the Internal Revenue Service under section 6109 of the Internal Revenue Code of 1954 shall determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.

(b) Each bank shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Each document granting signature authority over each deposit or share account, including any notations, if such are normally made, of specific identifying information verifying the identity of the signer (such as a driver's license number or credit card number);

(2) Each statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account;

(3) Each check, clean draft, or money order drawn on the bank or issued and payable by it, except those drawn for \$100 or less or those drawn on accounts which can be expected to have drawn on them an average of at least 100 checks per month over the calendar year or on each occasion on which such checks are issued, and which are

- (i) dividend checks,
- (ii) payroll checks,
- (iii) employee benefit checks,
- (iv) insurance claim checks,
- (v) medical benefit checks,
- (vi) checks drawn on government agency accounts,
- (vii) checks drawn by brokers or dealers in securities,
- (viii) checks drawn on fiduciary accounts,
- (ix) checks drawn on other financial institutions, or
- (x) pension or annuity checks;

(4) Each item in excess of \$100 (other than bank charges or periodic charges made pursuant to agreement with the customer), comprising a debit to a customer's deposit or share account, not required to be kept, and not specifically exempted, under paragraph (b)(3) of this section;

(5) Each item, including checks, drafts, or transfers of credit, of more than \$10,000 remitted or transferred to a person, account or place outside the United States;

(6) A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account or place outside the United States;

(7) Each check or draft in an amount in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment;

(8) Each item, including checks, drafts or transfers of credit, of more than \$10,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a bank, broker or dealer in foreign exchange outside the United States;

(9) A record of each receipt of currency, other monetary instruments, investment securities or checks, and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States; and

(10) Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a transaction account and to trace a check in excess of \$100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of \$100. This subparagraph shall be applicable only with respect to demand deposits.

(11) A record containing the name, address, and taxpayer identification number as determined under section 6109 of the Internal Revenue Code of 1986, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction.

(12) A record containing the name, address and taxpayer identification number as determined under section 6109 of the Internal Revenue Code of 1986, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.

(13) Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The slip or ticket shall record the amount of any currency involved.

(Approved by the Office of Management and Budget under control number 1505-0063)

[38 FR 2175, Jan. 22, 1973, as amended at 38 FR 3509, Feb. 7, 1973; 43 FR 21672, May 19, 1978; 52 FR 11444, Apr. 8, 1987; 68 FR 25109, May 9, 2003]

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Title 26 United States Code  
Sec. 6041. Information at source

Background Notes  
Taxpayer Bill of Rights  
Special Note: 1997 Taxpayer Relief Act

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(d), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Collection of foreign items

In the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by any person undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange, such person shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the amount paid and the name and address of the recipient of each such payment.

(c) Recipient to furnish name and address

When necessary to make effective the provisions of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing--

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b).

(e) Section does not apply to certain tips

This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies.

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[Code of Federal Regulations]

[Title 26, Volume 18]

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[Page 83-90]

TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY  
(CONTINUED)

records, statements, and special returns--Table of Contents

Sec. 301.6109-1 Identifying numbers.

(c) Requirement to furnish another's number. Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph (b)(2)(i), (ii), (iii), or (vi) of this section as required by the forms and the accompanying instructions. The taxpayer identifying number of any person furnishing a withholding certificate referred to in paragraph (b)(2)(vi) of this section shall also be furnished if it is actually known to the person making a return, statement, or other document described in this paragraph (c). If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, and such other person is one that is described in paragraph (b)(2)(i), (ii), (iii),

or (vi) of this section, such person must request the other person's number. The request should state that the identifying number is required to be furnished under authority of law. When the person making the return, statement, or other document does not know the number of the other person, and has complied with the request provision of this paragraph (c), such person must sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A person required to file a taxpayer identifying number shall correct any errors in such filing when such person's attention has been drawn to them.

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42 USC Sec. 408

01/22/02

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 7 - SOCIAL SECURITY

SUBCHAPTER II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY  
INSURANCE BENEFITS

-HEAD-

Sec. 408. - Penalties

(a) In general

Whoever -

(1) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to -

(A) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(B) whether net earnings from self-employment (as such term is defined in this subchapter and in the Internal Revenue Code) were derived, or as to the amount of

such net earnings or the period during which or the person by whom derived; or

(C) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(2) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(3) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(4) having knowledge of the occurrence of any event affecting

(1) his initial or continued right to any payment under this subchapter,

or

(2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized;

or

(5) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(6) willfully, knowingly, and with intent to deceive the Commissioner of Social Security as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner of Social Security with respect to any information required by the Commissioner of Social Security in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title;

or

(7) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the

purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled, or for the purpose of obtaining anything of value from any person, or for any other purpose -

(A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Commissioner of Social Security by him or by any other person; or

(B) with intent to deceive, falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to him or to another person, when in fact such number is not the social security account number assigned by the Commissioner of Social Security to him or to such other person; or

(C) knowingly alters a social security card issued by the Commissioner of Social Security, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it;

or

(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.

(b) Violations by certified payees

Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(j) of this title on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under title 18 or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

(c) Effect upon certification as payee; definitions

Any individual or entity convicted of a felony under this section or under section 1383a(b) of this title may not be certified as a payee under section 405(j) of this title. For the purpose of subsection (a)(7) of this section, the terms "social security number" and "social security account number" mean such numbers as are assigned by the Commissioner of Social Security under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.

(d) Application of subsection (a)(6) and (7) to certain aliens

(1) Except as provided in paragraph

(2), an alien -

(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a of title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

(B) whose status is adjusted to that of permanent resident -

(i) under section 202 of the Immigration Reform and Control Act of 1986,

or

(ii) pursuant to section 1259 of title 8, or

(C) who is granted special immigrant status under section 1101(a)(27)(I) of title 8, shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) of this section if such conduct is alleged to have occurred prior to 60 days after November 5, 1990.

(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C) of this section) consisting of -

(A) selling a card that is, or purports to be, a social security card issued by the Commissioner of Social Security,

(B) possessing a social security card with intent to sell it, or

(C) counterfeiting a social security card with intent to sell it.

(3) Paragraph (1) shall not apply with respect to any criminal conduct involving both the conduct described in subsection (a)(7) of this section to which paragraph (1) applies and any other criminal conduct if such other conduct would be criminal conduct if the conduct described in subsection(a)(7) of this section were not committed.

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Below is an additional response in regards to the question of Bank Accounts and Social Security numbers.

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A small response to your excellent article. Some number of years ago, when I was dealing with some old trusts that were set up to do banking, I learned that only corporations are limited for banking purposes. As long as you do business in your own name, you can take deposits, pay interest, make loans and do anything else normally done by a bank. You can do all of this without a banking license. Of course you won't be able to do business with the "clearing house" for checks (Federal Reserve Bank), you won't have access to the "Fed wire" and in short you will be a bank all by yourself. But what is interesting is that this highly regulated business can be operated by an individual human being as long as they don't incorporate. I suspect that every other problem we have with regulations is stemming from the same "benefit" of registering an "entity" with the government.--