

POLICY DOCUMENT: PAPERWORK REDUCTION ACT (PRA) VIOLATIONS BY THE I.R.S.

Last revised: 1/20/2010

1	Introduction	3
2	Requirements of the Paperwork Reduction Act	3
3	History of IRS Compliance with the Paperwork Reduction Act	4
4	Exceptions to the Paperwork Reduction Act	4
5	Conclusions	4
6	Resources for Further Study and Rebuttal	5

TABLE OF AUTHORITIES

Statutes

26 U.S.C. §§7801, 7803	4
26 U.S.C. §1	4
26 U.S.C. §6012	4
26 U.S.C. §7701(a)(14)	5
26 U.S.C. §7701(a)(30)	5
4 U.S.C. §72	5
44 U.S.C. §3507	3
44 U.S.C. §3512(a)(ii)	3
44 U.S.C. §3512(b)	3
44 U.S.C. §3518(c)(1)(B)(ii)	4
Internal Revenue Code	5
Paperwork Reduction Act of 1980, P.L 96-511	3
Paperwork Reduction Act, 55 U.S.C. Code, Chapter 35, Subchapter I	5
U.S. Code, Title 44, Chapter 35, Subchapter I	3

Regulations

1 CFR §21.35	3
26 CFR §1.1-1	4
26 CFR §1.6012-1	4
26 CFR §602.101	4
26 CFR §602.101	6
26 CFR §602.101(c)	4
5 CFR §1320.1 through 5 CFR §1320.18	3
5 CFR Part 1320	5

Cases

Diversified Metals Inc. v. T-Bow Company Trust, Case No. 93-405-E-EJL	4
Dole v. United Steelworkers of Am., 494 U.S. 26, 33 (1990)	4
Fostvedt v. U.S., 978 F.2d 1201, 1202 (10th Cir. 1992)	3
James v. United States, 970 F.2d 750 (10th Cir. 1992)	4

Londsdale v. United States, 919 F.2d 1440, 1444 (10th Cir. 1990)	4
United States v. Collins, 920 F. 2d 619 (10th Cir. 1990)	4
United States v. Dawes, 951 F.2d 1189, 1191-92 (10th Cir. 1991).....	4

Other Authorities

Form SF-83	3
House Conference Report No. 104-99, April 3, 1995, [page 36] at 248, # 30 U.SCCAN, 239, 1995 WL 147035	3
House Report, P.L. 104-13 [page 8][page 171].....	3
IRS Form 1040 for year 2009.....	4
Legal Requirement to File Federal Income Tax Returns, Form #05.009	5
Lindsey Springer	3
Office of Management and Budget (OMB), Washington, D.C.	5
OMB Control Number 1545-0074	4
OMB Control Numbers, Family Guardian Website	6
OMB Number 1545-0074	4
OMB Website: Paperwork Reduction Act Compliance	5
Penalty Protester Website Web Capture.....	3
Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: OMB Control Numbers	6
Tax Deposition Questions, Form #03.016, Section 10: Paperwork Reduction Act (PRA) and Administrative Procedures Act (APA) Regulations	6
The Tax Court Scam, Form #05.039	5
U.S. Dept. of Justice.....	4
Web capture of entire Penalty Protester Website maintained by Lindsey Springer. Current as of Dec. 2009	6
What Happened to Justice?, Form #06.012	5
Why I Am Not Legally Liable to File Affidavit, Form #07.103	5
Why Your Government is Either a Thief or You Are a “Public Officer” for Income Tax Purposes, Form #05.008	5

1 Introduction

This memorandum of law deals with abuses of the Paperwork Reduction Act by the Internal Revenue Service, all known remedies for the abuses, and caselaw relating to the subject from federal courts. It is written as a way to capture, organize, and consolidate research on the subject accumulated over several years by Lindsey Springer, who maintained the Penalty Protester Website (<http://penaltyprotester.com>). Lindsey never bothered to organize and package his research to make it useful, and it needs to be packaged before it is lost forever because his website was shut down permanently in December 2009 under a consent order as a precondition of his release pending sentencing. His entire website was captured electronically just before it was shut down to ensure his research was not lost. You can find an image of that website at:

Penalty Protester Website Web Capture
<http://famguardian.org/Disks/TaxDVD/Researchers/Springer,Lindsey/>

2 Requirements of the Paperwork Reduction Act

The Paperwork Reduction Act (PRA) is contained in the U.S. Code, Title 44, Chapter 35, Subchapter I and is entitled “Federal Information Policy”. The requirements of the Paperwork Reduction Act are as follows:

1. Congress enacted the Paperwork Reduction Act of 1980, P.L. 96-511
2. The legislative intent of the Paperwork Reduction Act of 1980 was identified as follows:

“Ensure that the collectionof information is consistent with applicable laws relating to privacy, security, and confidentiality.” House Report,P.L. 104-13 [page 8][page 171].

3. Every form published by the Federal Government which is to be distributed to private people who are not part of the government must display a valid Office of Management and Budget (OMB) control number.

[TITLE 44 > CHAPTER 35 > SUBCHAPTER I > § 3512](#)
[§ 3512. Public protection](#)

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter if—

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter; or

(2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.

(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

4. 5 CFR §1320.1 through 5 CFR §1320.18 address the requirement to the display of OMB control numbers on every federal government form.
5. 44 U.S.C. §3507 describes the procedure for each federal agency to get its forms OMB approved prior to disseminating them to the public.
6. Form SF-83 is the form that is supposed to be submitted annually by each “agency” to the Office of Management and Budget, requesting an assignment of a specific OMB number to a specific form. The SF-83 form must list the specific regulation(s) that give rise to the specific duty to file the specific form identified.
7. Beginning Calendar Year 1995, Congress mandated that all collection requests display a statement that “a person is not required to respond to the collection of information” which is “subject to the Act” “unless it displays a control number which is VALID.” See 44 U.S.C. §3512(a)(ii); See also House Conference Report No. 104-99, April 3, 1995, [page 36] at 248, # 30 U.S.CCAN, 239, 1995 WL 147035.
8. 1 CFR §21.35 regulates how OMB control number must be referenced within regulations and statutes.
9. The PRA does not create a private right of action but, rather, serves as a defense. 44 U.S.C. §3512(b); see *Fostvedt v. U.S.*, 978 F.2d 1201, 1202 (10th Cir. 1992).

3 History of IRS Compliance with the Paperwork Reduction Act

1. 26 CFR §602.101 lists specific Internal Revenue Code regulations associated with specific OMB control numbers.
2. 26 U.S.C. §6012 identifies the requirement to file federal tax returns. The regulations at 26 CFR §1.6012-1 MANDATE the filing of tax returns in the case of:
 - 2.1. Statutory “U.S. citizens”.
 - 2.2. Statutory “resident aliens”.
 - 2.3. Statutory “nonresident alien individuals”.
3. The U.S. Dept. of Justice has admitted under penalty of perjury during a deposition that the I.R.S. is NOT, in fact, an “agency” within the United States government. See *Diversified Metals Inc. v. T-Bow Company Trust*, Case No. 93-405-E-EJL. District Court for the District of Idaho and the following:
<http://famguardian.org/Subjects/Taxes/Evidence/USGovDeniesIRS/USGovDeniesIRS.htm>
4. Federal courts have held that tax forms are covered by the Paperwork Reduction Act (PRA). *Dole v. United Steelworkers of Am.*, 494 U.S. 26, 33 (1990).
5. 26 CFR §602.101(c) lists the specific form number associated with the income tax.
 - 5.1. IRS Forms 1040 and 2555 for year 2009 use OMB Control Number 1545-0074.
 - 5.2. Within 26 CFR §602.101(c), the sections associated with OMB Number 1545-0074 is:
 - 5.2.1. 26 CFR §§1.23-5, 1.31-2, 1.32-2, 1.37-1, etc. NOWHERE is the tax imposed under 26 U.S.C. §1 or implemented in 26 CFR §1.1-1 mentioned.
6. The following precedents apply:
 - 6.1. *United States v. Collins*, 920 F. 2d 619 (10th Cir. 1990): “Forms 1040 lacked expiration dates and, therefore, failed to comply with PRA is legally frivolous”.
 - 6.2. *James v. United States*, 970 F.2d 750 (10th Cir. 1992): “holding that the lack of an OMB number on IRS notices and forms does not violate the PRA”

4 Exceptions to the Paperwork Reduction Act

Federal courts have held that direct statutory commands are not repealed because of the Paperwork Reduction Act (PRA)

“the requirement to file a tax return is mandated by statute, not by regulation” and “such explicit statutory requirements are not subject to the PRA.”
[United States v. Dawes, 951 F.2d 1189, 1191-92 (10th Cir. 1991)]

The PRA was not designed to:

“repeal the statutory criminal penalty for failing to file an income tax return because tax regulations and instructions lack OMB numbers.” Id. at 1193.

Further, the Secretary of Treasury and the IRS have clear authority to impose criminal and civil penalties related to Form 1040. 26 U.S.C. §§7801, 7803; see *Londsdale v. United States*, 919 F.2d 1440, 1444 (10th Cir. 1990) (dismissing plaintiff’s claim that IRS lacked authority to enforce tax code after finding that the PRA “did not apply to the collection of information . . . during the conduct of . . . an administrative action or investigation involving an agency against specific individuals or entities” pursuant to 44 U.S.C. §3518(c)(1)(B)(ii)).

5 Conclusions

The genesis of Lindsey Springer’s research on the Paperwork Reduction Act was to use it as a defense against willful failure to file charges under 26 U.S.C. §7203. Based upon

1. The research contained in this pamphlet.
2. Springer’s voluminous court pleadings.
3. Response by the federal courts to Springers pleadings.
4. The content of his now defunct website documenting the issue.

1 . . .we don't recommend using the Paperwork Reduction Act as the defense against willful failure to file that it was intended
2 for. We think it a WEAK defense and that there are MUCH better defenses for failure to file. We list BETTER defenses in
3 the following resources:

- 4 1. *Legal Requirement to File Federal Income Tax Returns*, Form #05.009
5 <http://sedm.org/Forms/FormIndex.htm>
- 6 2. *Why I Am Not Legally Liable to File Affidavit*, Form #07.103
7 <http://sedm.org/Forms/FormIndex.htm>

8 The major defect in Springer's approach that lead to his downfall and eventual conviction are summarized below. Anyone
9 even considering attempting this defense must, as a bare minimum, remove all such defects:

- 10 1. The audience of people protected by the PRA obviously was the "public", who are NOT the same audience as
11 "persons" under the Internal Revenue Code. By public, is obviously meant the PRIVATE public. "persons" and
12 "taxpayers" within the Internal Revenue Code are in NO WAY "private" or members of the "public", but rather public
13 officers and instrumentalities of the U.S. government. That is the origin of why the courts said the PRA was a statutory
14 command that was not superseded by the Paperwork Reduction Act: Because the audience for the PRA has nothing to
15 do with those who are "taxpayers". The nature of all "taxpayers" as public officers is exhaustively established by the
16 following:

Why Your Government is Either a Thief or You Are a "Public Officer" for Income Tax Purposes, Form #05.008
<http://sedm.org/Forms/FormIndex.htm>

- 17 2. He filed pleadings in Tax Court. Tax Court Rule 13(a) says that ONLY "taxpayers" can entertain suits in Tax Court.
18 Hence, he last before he ever even got into court because he had the WRONG status. The IRS subsequently referred to
19 him as a "taxpayer", and his home was also raided because as a taxpayer, he was presumed to be liable for the tax in
20 question and subject to the I.R.C. per 26 U.S.C. §7701(a)(14).
- 21 3. He cited the Internal Revenue Code in his defense, both in federal district court and in Tax Court. The Internal
22 Revenue Code Subtitles A and C are a private law franchise and excise based on the "trade or business" activity. By
23 doing so, all he did was prove that he was a "taxpayer" subject to the code who was liable no matter what.
- 24 4. Springer thought that the Tax Court was a REAL court. He was dead wrong. It is an administrative FRANCHISE
25 COURT available only to public officers within the U.S. government operating ONLY in the District of Columbia ad
26 not elsewhere pursuant to 4 U.S.C. §72. See the following for proof:

The Tax Court Scam, Form #05.039
<http://sedm.org/Forms/FormIndex.htm>

- 27 5. Springer thought the U.S. District Courts were real Constitutional, Article III courts. They are NOT. They are franchise
28 courts just like the U.S. Tax Court. If he wanted to litigate to defend his rights, he should have taken his case to state
29 court, invoked the common law and not statutory law, and demanded a jury of his peers who were not tax consumers or
30 "U.S. persons" under 26 U.S.C. §7701(a)(30). Statutory law only regulated the activities of government public
31 officers, with the possible exception of Title 18 of the U.S. Code, which regulates those not on official business. See:

What Happened to Justice?, Form #06.012
<http://sedm.org/Forms/FormIndex.htm>

32 We think that Springer's heart was in the right place, but he was just not fully informed about the nature of the beast he was
33 fighting. He was so obsessed with his magic PRA bullet that he lost sight of much more valuable defenses.

34 **6 Resources for Further Study and Rebuttal**

35 You can find further research on the subjects covered in this memorandum of law at the following locations.

- 36 1. Paperwork Reduction Act, 55 U.S.C. Code, Chapter 35, Subchapter I:
37 http://www.law.cornell.edu/uscode/html/uscode44/usc_sup_01_44_10_35_20_I.html
- 38 2. 5 CFR Part 1320: Controlling Paperwork Burdens on the Public
39 http://www.access.gpo.gov/nara/cfr/waisidx_08/5cfr1320_08.html
- 40 3. *Office of Management and Budget (OMB)*, Washington, D.C.:
41 <http://www.whitehouse.gov/omb/>
- 42 4. *OMB Website: Paperwork Reduction Act Compliance*
43 <http://www.whitehouse.gov/omb/inforeg/infocoll.html#PRA>

- 1 5. *Tax Deposition Questions*, Form #03.016, Section 10: Paperwork Reduction Act (PRA) and Administrative
2 Procedures Act (APA) Regulations
3 <http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2010.htm>
- 4 6. OMB Control Numbers, Family Guardian Website:
5 <http://famguardian.org/TaxFreedom/Forms/IRS/OMBFormInfo.htm>
- 6 7. 26 CFR §602.101: OMB Control Numbers.
- 7 8. *Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic*: OMB Control Numbers
8 <http://famguardian.org/TaxFreedom/CitesByTopic/OMBControlNums.htm>
- 9 9. *Web capture of entire Penalty Protester Website maintained by Lindsey Springer.* Current as of Dec. 2009:
10 <http://famguardian.org/Disks/TaxDVD/Researchers/Springer,Lindsey/>