

U.S. Court of Appeals Rules IRS Cannot Apply Force Against a Tax payer Without a Federal Court Order. Tax Payers Free to Ignore an IRS Summons.

Queensbury, NY – On January 25, 2005, the U.S. Court of Appeals for the Second Circuit held that taxpayers cannot be compelled by the IRS to turn over personal and private property to the IRS, absent a federal court order.

Quoting from the decision (Schulz v. IRS, Case No. 04-0196-cv).

“...absent an effort to seek enforcement through a federal court, IRS summonses apply no force to taxpayers, and no consequence whatever can befall a taxpayer who refuses, ignores, or otherwise does not comply with an IRS summons until that summons is backed by a federal court order. [a taxpayer] cannot be held in contempt, arrested, detained, or otherwise punished for refusing to comply with the original IRS summons, no matter the taxpayers’ reasons, or lack of reasons for so refusing.”

Without declaring those provisions of the Code unconstitutional on their face, the court, in effect, nullified key enforcement provisions of the Internal Revenue Code stripping the IRS of much of its power to compel compliance with its administrative demands for personal and private property. The court characterized IRS summonses issued under Section 7602 as mere **“requests.”**

The court went on to say that the federal courts are there to protect taxpayers from an “overreaching” IRS, and that the IRS **must** go through the federal courts before force can be applied on anyone by the IRS to turn over personal and private property to the IRS.