

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

UNITED STATES OF AMERICA,)	
)	
v.)	CIVIL ACTION NO. 1:14-mc-9
)	
)	
JAMES E. MACALPINE,)	
)	
Respondent.)	

**PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, by and through its attorney, Anne M. Tompkins, United States Attorney for the Western District of North Carolina, on behalf of the Internal Revenue Service (the Service), avers to this Court as follows:

1. This is a proceeding brought under the authority of I.R.C. § 7402(b) and 7604(a) of Title 26, U.S.C., to judicially enforce an Internal Revenue summons;

2. Angela Allen is a Revenue Officer of the Internal Revenue Service, employed in the Small Business/Self-Employed Division of the Internal Revenue Service located at Asheville, North Carolina, and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in section 7602 of Title 26, U.S.C., and Treasury Regulations, section

301.7602-1, 26 C.F.R. § 301.7602-1.

3. The respondent, James E. MacAlpine, resides or is found at 603 Woodlea Court, Asheville, North Carolina 28806-4805, which is within the jurisdiction of this court.

4. Revenue Officer Angela Allen is conducting an investigation into the collection of the income tax liability of James E. MacAlpine for the calendar years ended December 31, 2010, December 31, 2011, and December 31, 2012, as set forth in the Declaration of Revenue Officer Angela Allen attached hereto as Exhibit B.

5. The respondent, James E. MacAlpine, is in possession and control of testimony and documents concerning the above-described investigation.

6. On September 23, 2013, an Internal Revenue Service summons was issued by Revenue Officer Angela Allen directing the respondent, James E. MacAlpine, to appear before Revenue Officer Angela Allen on October 29, 2013, at 10:00 a.m., at 151 Patton Avenue, Room 167, Asheville, North Carolina, 28801, to testify and to produce for examination books, papers, records, or other data described in the summons. An attested copy of the summons was handed to James E. MacAlpine by Revenue Officer Angela Allen on September 23, 2013.

The summons is attached hereto and incorporated herein as Exhibit A.

7. On October 29, 2013, the respondent, James E. MacAlpine, failed to appear in response to the summons. Instead, Mr. MacAlpine sent back to the Revenue Officer by certified U.S. Mail a document containing numerous questions he wanted the Service to answer about the meeting to which he was summoned, and various legal citations. That reply is attached to the declaration in Exhibit B.

8. On November 21, 2013, a letter was issued by Petitioner directing the Respondent to

appear before Revenue Officer Angela Allen on December 19, 2013, at 10:00 a.m., at 151 Patton Avenue, Room 167, Asheville, North Carolina, 28801, to testify and to produce for examination books, papers, records, or other data described in the summons. The letter was sent to Respondent's last known address by Petitioner on November 21, 2013. A copy of the letter is attached hereto and incorporated herein as Exhibit C.

9. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue.

10. All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.

11. It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summons in order to properly investigate the collection of the federal income tax liability of James E. MacAlpine for the calendar years ended December 31, 2010, December 31, 2011, and December 31, 2012, as evidenced by the declaration of Revenue Officer Angela Allen, attached hereto and incorporated herein as part of this petition. However, the respondent's refusal to comply with the summons continues to date as is set forth in the declaration of Revenue Officer Angela Allen attached hereto as Exhibit B.

NOTE: Not true.

WHEREFORE, the petitioner respectfully prays:

1. That this court enter an order directing the respondent, James E. MacAlpine, to show cause, if any, why he should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the court enter an order directing the respondent, James E. MacAlpine, to obey

the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Angela Allen, or any other proper officer or employee of the Internal Revenue Service, at such time and place as may be fixed by Revenue Officer Angela Allen, or any other proper officer or employee of the Internal Revenue Service.

3. That the United States recovers its costs in maintaining this action.
4. That the court grant such other and further relief as is just and proper.

This the 25th day of February, 2014.

ANNE M. TOMPKINS
UNITED STATES ATTORNEY

/s Paul B. Taylor

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