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IRS Issues John Doe Summonses To Citibank, Chase, BoA, Mellon, HSBC---Tax Prosecutions Coming

[FATCA](#) is in the news frequently as the cause of global bank transparency. In reality, though, bank secrecy was *really* broken by the John Doe summonses. In 2008, the [John Doe summons](#) blew the lid off the hushed world of Swiss banking. A judge allowed the IRS to [issue a John Doe summons to UBS](#) for information about U.S. taxpayers using Swiss accounts.



That eventually led to Americans scrambling for cover and UBS forking over names and a \$780 million penalty. Willing or not, many other banks followed suit. And now, the IRS has [court approval](#) to issue summonses requiring Bank of New York Mellon and Citibank to produce information about Americans with undisclosed accounts at Switzerland's Zurcher Kantonalbank. See [Court Order](#).

Plus, the [court went further](#), allowing the IRS to issue John Doe summonses to Mellon, Citibank, JPMorgan Chase, HSBC and Bank of America to produce data on undisclosed accounts at Bank of N.T. Butterfield & Son Limited in the Bahamas, Barbados, Cayman Islands, Guernsey, Hong Kong, Malta,

Switzerland, and the United Kingdom. The IRS is going fishing and seems likely to catch some big fish.

With a normal summons, the IRS seeks information about a ***specific*** taxpayer whose identity it knows. In contrast, 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.

A John Doe summons is ideal for pursuing tax shelter investors, or account holders at a financial institution. The IRS can claim major successes on this front. After sniffing out American taxpayers with UBS accounts, the IRS did the same with HSBC in India.

The IRS Manual says it may be possible to obtain taxpayer identities without issuing a John Doe summons. Maybe, but it's hard to argue with success. The IRS uses John Doe summonses when it doesn't know the identities of the suspected culprits. In this case, the John Doe summonses direct the various banks to produce records identifying U.S. taxpayers with accounts at ZKB, Butterfield, and their affiliates.

That includes other foreign banks that used ZKB and Butterfield's U.S. correspondent accounts at Mellon, Citibank, JPMorgan, HSBC, and Bank of America to service U.S. clients. In short, the IRS is going to collect data on individuals using financial institutions from Switzerland to the Cayman Islands to Hong Kong. And while it will take the IRS time to collate and process it, you can bet the IRS will put the information it acquires to good use.

At the same time, the IRS is pointing to its [Offshore Voluntary Disclosure Program](#). The IRS warns U.S. taxpayers to come forward before it's too late. In fact, the IRS notes that one person's disclosure often reveals data about someone else.

The IRS says it already knows of a number of U.S. taxpayers with beneficial ownership and control over funds at ZKB and Butterfield's. The IRS believes there are others. Besides, in December 2012, [three ZKB employees were indicted](#) for conspiring with U.S. taxpayers to hide \$423 million from the IRS. The IRS banks on a combination of information sources.

The IRS has a data bank now of data from tens of thousands of voluntary disclosures. The IRS and Department of Justice also mine their cooperating witnesses, often with a combination of carrots and sticks. In some cases, the government prosecutes and in others it grants immunity.

The John Doe summons fits nicely in this arsenal of information gathering tools. And these days, that mountain of data the IRS is collecting is growing to be the size of the Matterhorn.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.