

May 2014

Dear Mr. Chief Counsel:

The United States Department of State Application for a Passport [form DSP-11] requests that an applicant provide their Social Security Number (SSN) under color of "Federal Tax Law". This request is unlawful.

It is unlawful because it is not supported by a statement required by the Privacy Act of 1974 [PL93-579§7b]. In particular, the required Privacy Act Statement thereon does not mention any authority for the Passport Office's request for the SSN. Fortunately, it does not cite 26USC6039E which provides no such authority to the Passport Office, itself.

It is unlawful because The "Federal Tax Law" section misquotes Section 6039E of the 1986 Internal Revenue Code, claiming that this section requires name, mailing address, date of birth, and Social Security Number. In fact, this section only requires the TIN: that is, only the last of these four items.

Whereas,

IRS law requires that a taxpayer applying for a passport include a statement of TIN [26USC6039E.al];

The statement is required under Title 26 (Internal Revenue Service) rather than under Title 22 (Department of State);

Therefore,

Disclosure to the IRS is mandatory, but disclosure to the Department of State is not;

Senate Report 99-313 states that the requirement under this section is "an *Internal Revenue Service information return* [italics added; to] be completed in conjunction with the processing of passports in the case of citizens " This is clear intent that the information is to be returned to the Internal Revenue Service rather than to the Passport Office.

Passport information is available to any government agency merely upon request [22CFR§51.33c], without restrictions on its security thereafter;

Information returned to the IRS is far more secure [26USC6103] and routine security usually extends beyond the IRS to other government agencies that may obtain it;

A passport cannot be denied upon one's refusal of non-mandatory disclosure of their SSN [PL93-579§7al];

The IRS has not promulgated regulations implementing either Subsections (b4) or (e) of 26USC6039E;

The IRS has not issued a form for citizens to report this information, similar to its Form 2063 for aliens;

Form 2063 has a stub devoid of numbers for disclosure to other branches of government, indicating that an alien has satisfied tax code obligations;

Now, therefore, do I assert that,

This statement is required from me [26USC6039.b1]; that I am herewith applying for a passport and that my TIN is xxx-xx-xxxx (**None**); It suffices for me to submit this statement as an "information return" to the IRS under its law rather than to the Department of State. This statement is offered with my Passport Application to the "Person Administering Oath" (a postal employee) in a sealed envelope addressed to the OFFICE OF CHIEF COUNSEL, Internal Revenue Service, with US postage attached for Certified Mail-Return Receipt Requested.

Respectfully,

[Name withheld, as permitted]