

1 submit proposed findings and recommendations under Local Rule 304(a), with the original thereof filed
2 by the Clerk and a copy provided to all parties.

3 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS employee,
4 and all federal employees designated by that employee, to serve process in this case.

5 3. To afford the respondent an opportunity to respond to the petition and the petitioner an
6 opportunity to reply, a copy of this order, the Petition and its Exhibits, and the Points and Authorities,
7 shall be served by delivering a copy to the respondent personally, or by leaving a copy at the
8 respondent's dwelling house or usual place of abode with some person of suitable age and discretion
9 then residing therein, or by any other means of service permitted by Fed. R. Civ. P. 4(e), at least 30 days
10 before the show cause hearing date including any continued date.

11 4. Proof of any service done under paragraph 3, above, shall be filed with the Clerk as soon
12 as practicable.

13 5. If the federal employee assigned to serve these documents is not reasonably able to serve
14 the papers as provided in paragraph 3, petitioner may request a court order granting leave to serve by
15 other means. *See* Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts made to serve the
16 respondent.

17 6. The file reflects a *prima facie* showing that the investigation is conducted pursuant to a
18 legitimate purpose, that the inquiry may be relevant to that purpose, that the information sought is not
19 already within the Commissioner's possession, and that the administrative steps required by the Code
20 have been followed. See United States v. Powell, 379 U.S. 48, 57-58 (1964). The burden of coming
21 forward therefore has shifted to whoever might oppose enforcement.

22 7. If the respondent has any defense or opposition to the petition, such defense or opposition
23 shall be made in writing and filed with the Clerk and a copy served on the United States Attorney at
24 least **10 days** before the show cause hearing date including any continued date.

25 8. At the show cause hearing, the Magistrate Judge intends to consider the issues properly
26 raised in opposition to enforcement. Only those issues brought into controversy by the responsive
27 pleadings and supported by affidavit will be considered. Any uncontested allegation in the petition will
28 be considered admitted.

