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8 IN THE UNITED STATES DISTRICT COURT FOR THE  
 9 EASTERN DISTRICT OF CALIFORNIA  
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11 UNITED STATES OF AMERICA, and  
 KIM ULRING, Revenue Officer,  
 12 Internal Revenue Service,

13 Petitioners,

14 v.

15 EVERETT D. CALHOUN,

16 Respondent.  
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Case No. 2:11-mc-00068-MCE-DAD

**ORDER TO SHOW CAUSE RE:  
 TAX SUMMONS ENFORCEMENT**

Taxpayer: EVERETT D. CALHOUN

Date: Friday, September 30, 2011

Time: 10:00 a.m.

Ctrm: #27 (8th Floor)  
 (Honorable Dale A. Drozd)

18 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the  
 19 Eastern District of California, and the Exhibit attached thereto, including the verification  
 20 of Revenue Officer KIM ULRING, it is hereby:

21 ORDERED that the Respondent, EVERETT D. CALHOUN, appear before United  
 22 States Magistrate Judge Dale A. Drozd, in that Magistrate Judge’s courtroom in the  
 23 United States Courthouse, 501 I Street, Sacramento, California, on Friday, September 30,  
 24 2011, at 10:00 a.m., to show cause why the respondent should not be compelled to obey  
 25 the Internal Revenue Service summons issued on April 20, 2011.

26 It is further ORDERED that:

27 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section  
 28 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing,

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

4 2. The Court hereby appoints the group manager of the petitioning Internal  
5 Revenue Service employee, and all federal employees designated by that group manager,  
6 under Fed. R. Civ. P. 4(c)(1), to serve process in this case.

7 3. A copy of this order, the Verified Petition and its Exhibit, and the Points and  
8 Authorities, shall be served by delivering a copy to the respondent personally or by  
9 leaving a copy at the respondent's dwelling house or usual place of abode with some  
10 person of suitable age and discretion then residing therein, or by any other means of  
11 service permitted by Fed. R. Civ. P. 4(e), within 21 days of the date this order is served  
12 upon the United States Attorney, unless such service cannot be made despite reasonable  
13 efforts.

14 4. If the federal employee assigned to serve these documents is unable to serve the  
15 papers as provided in paragraph 3, despite making reasonable efforts to do so, petitioners  
16 may request a court order granting leave to serve by other means. See Fed. R. Civ. P.  
17 81(a)(5). The federal employee assigned to serve the documents shall make a certificate  
18 detailing the efforts made within the 21-day period to serve the respondent as provided in  
19 paragraph 3.

20 5. Proof of any service done pursuant to paragraph 3 or 4, above, shall be filed  
21 with the Clerk as soon as practicable.

22 6. The file reflects a prima facie showing that the investigation is conducted  
23 pursuant to a legitimate purpose, that the inquiry may be relevant to that purpose, that the  
24 information sought is not already within the Commissioner's possession, and that the  
25 administrative steps required by the Code have been followed. United States v. Powell,  
26 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has shifted to  
27 whoever might oppose enforcement.

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1 7. If the respondent has any defense or opposition to the petition, such defense or  
2 opposition shall be made in writing and filed with the Clerk and a copy served on the  
3 United States Attorney at least 10 days prior to the date set for the show cause hearing.

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

8 9. The respondent may notify the Court, in a writing filed with the Clerk and  
9 served on the United States Attorney at least 10 days prior to the date set for the show  
10 cause hearing, that the respondent has no objections to enforcement of the summons. The  
11 respondent's appearance at the hearing will then be excused.

12 DATED: August 1, 2011.

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16 DALE A. DROZD  
17 UNITED STATES MAGISTRATE JUDGE

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