

Attn: Section 352 – Jewelry Dealers Regulations.”

Los Angeles, April 8, 2003

Gentlemen,

My name is W. Paul Lenz and I am an IRS Anti-Money Laundering Examiner in Group 1721, Los Angeles, California for nearly eight (8) years. I was delighted to take notice of the proposed rulemaking regarding the Anti-Money Laundering Program, specifically, since it is designed to affect “Dealers in Precious Metals, Stones, or Jewels. A ruling I praise and something, I have advocated to local management for a long time to promote since some of my professional expertise, as well as professional disappointments encountered, relate to “Dealers, Brokers, Wholesalers of precious Metals (mainly gold) and their respective customers.

I have studied all pages of the “Notice of Proposed Rulemaking” and I am in agreement with your suggestion, definitions and thresholds recommended – only, I wished you had added to the objectives of “detection and prevention of money laundering, along with the discovery of possible terrorism financing schemes”, something - equally as important, when related to the economic welfare of the Nation, namely - “the willful and intentional pilferage of the National Treasure” by way of deliberate underreporting, or failing to report altogether, the correct amounts of gross receipts received in a trade or business by business owners, since it is not lawfully required to maintain adequate business records.. What I am really saying is, that even with an Anti-Money Laundering Program for the targeted industry, see (31 CFR Part 103.140) in place, enforced and adhered to, it will persist to prove ineffective and instead continue to promote abuse, when it comes to the reporting requirements of income or subsequent collection of taxes thereof, as long as there **is not a statutory requirement** to maintain business records, **sales receipts or invoices sufficient enough to prove** that transactions **were not structured or obscured.**

Please, Gentlemen, make it obligatory for a business’ very own internal control/s, as well for government needs, whereby **numbered and dated invoices** are mandated that further identify the buyer to the seller or – to the AML-Examiner or IRS Auditor, **by name and business address, telephone - or contact #.** Invoices that clearly identify the amount of “precious metal/s or stones” purchased by way of **quantity, purity and Dollar value** and that most notably identify the **specific means of payment** tendered and accepted. Again, showing - the **exact amount of CASH received**, considering **split or partial billings**, as well as **credit card pmts.** and **# of checks** per invoice received, recorded and deposited.

I am referring, of course, to just an **ordinary, every day business invoice**, along with a properly filled-out **copy of a deposit slip** (or a copy of a page from the deposit book of the seller’s respective Bank Account, that shows cash deposits separately from checks, but still matching the amount/s of cash received per TP’s invoices). Gentlemen, **this is not an unreasonable request** from your AML-Examiners, nor is it an **undue burden to the Taxpayer or in violation of the Paperwork Reduction Act.** It is merely common business sense and should be made **a statutory requirement** and **put into practice now.**

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If - we were all living in a perfect world (business or otherwise), there would not be such a necessity required, but we are not! Please see the following examples.

- Anybody buying an automobile in America has seen their “dealer” going through the motion of facilitating, or having issued a “PINK SLIP” with your purchase. Even on a car worth as little as \$ 500. The customer will also get a very detailed and itemized invoice (radio, or no radio, spare tire or not, or bought as is). Yet, on 25 kg of gold purchased and all paid for in cash, if the Dealer so chooses, he does not have to issue an invoice, if in agreement with the buying party and - the IRS does not insist on one, nor is there a statutory requirement.
- Or - in the case of buying a diamond – the honest businessmen will again make available to the buyer a document of authenticity, certifying to the genuineness and contents of the stone/s or jewels purchased, e.g. carat/s and clarity, irregardless of the price. Yet, some gold brokers and/or wholesalers selling several hundreds thousands of Dollars worth of gold for cash per day - will not issue an invoice, because it is not a statutory requirement, nor is the lack of not having an invoice of any kind, enforced.

Because – among the business practices of the many “dealers, brokers and wholesalers” of precious metals and their respective customers, here in Los Angeles and I am sure, from across the Nation, there **does not exist a statutory requirement to issue an ordinary invoice**. And I am not talking of an occasional sale of 15 (fifteen) grams of gold. No, I am talking **of daily** and continued purchases **or CASH buys or sales** of 15 kilograms, 25 kg (or more of gold), worth hundreds of thousands of U.S. Dollars.

Yet – since no invoices to any of their customer are written (because there is no lawful requirement), their names and addresses remain protected (legally) from the AML-Examiner. However, every CASH sale, believed by the AML-Examiner to be over the \$ 10,000 mark and subject to 8300 filings, is denied. Even on days, when the particular “dealer” services 40 customers per day, first buying the gold, then dividing it, individually delivering the gold, receiving and counting the money (all cash sales, no checks) and depositing the CASH into his Bank Acct., there is not a single invoice issued. If one were to break the hours down per number of customers, the “dealer” would have about 12 minutes per client to accomplish the almost impossible. Could there be money laundering involved?

We, of course, will never know, because **as of today, there does not exist a statutory requirement to maintain sufficient business records (invoices)** that make an examination **effective - or in the least, expose structured transactions**.

Or - how about **the other** “dealers of precious metals” on whose “invoices” the amount of **cash stated as received does not match with the amount of cash deposited?**

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Contrary to the above cited examples, when there are no invoices, here – the (invoices) are so convoluted, so poorly written – as not to make any business sense, unless, of course, the purpose is to discourage from any kind of examination, 8300 - or otherwise.

Yet, the same dealer (with the poorly written invoices) will accept as many as **1,000** or more **second and third party checks per day**, worth a **100 Million of Dollars per year**, handed to him/her by their respective retail customers.

But why, could there again occur **underreporting or failure to report correct amounts of gross sales** to the City (because of forgoing to pay business tax) or to the State (sales tax), FTB (State Tax) or IRS - and all made possible, because there is not a statutory requirement to maintain adequate business records?

Gentlemen, while it may be perfectly normal among various business cultures here and from around the world to seal honorable business deals on a hand-shake only and without any written “invoices”, irregardless of the Dollar amount, **it is, however, not conducive or expedient to an Anti-Money Laundering Examination**, or – when the objective is, among other things, to uncover possible schemes of terrorism financing also!

So please, Gentlemen, **add to** the lastly received “Proposed Notice of Rulemaking”, 31CFR, Part 103.140, **the statutory requirement for any business to maintain sufficient prove (business invoices) that transaction/s occurred are indeed recorded as such and/or - were not structured or distorted to promote non-filing of Form/s 8300.**

Invoices - appropriate of any good business, therefore must show in the least:

- 1) **invoice number and date,**
- 2) **customer/s name, address, telephone number/s,**
- 3) **quantity (grams, ounces, kilo/s) and quality (14, 18, 22, 24 carat of goods (gold, metals or precious stones) sold or purchased,**
- 4) **method of payment/s received, e.g. cash, checks with their numbers listed, show 2nd or 3rd party checks (perhaps outlaw acceptance of such 2nd or 3rd party checks in large numbers) because there is no legitimate or valid business reason, other than, aiding and abetting unlawful activities),**
- 5) **... and all non-compliance must be enforceable!**

Gentlemen, this letter is **not an unreasonable request** from your AML-Examiner/s, **nor is it an undue burden to the Taxpayer to maintain proper invoices or - in violation of the Paperwork Reduction Act.** It is just adhering to common business- and government sense and must now (since the opportunity presents itself so clearly) be **made a statutory requirement.**

Sincerely, _____

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