

Opening Bank Accounts Without SSN's

by J. Anderson

The Social Security Number (SSN) is a strange beast. Ostensibly intended to help distribute government benefits to American citizens, it therefore seems benign, desirable (of course, cheese also seems "benign, desirable" to mice).

Here's a SSN "curiosity": According to Feb., 1997 issue of "The World According to Us" newsletter (POB 10309, St Petersburg, Fla., 33733):

"Israeli Prime Minister Benjamin Netanyahu holds dual citizenship in the United States and Israel. An Israeli newspaper (Jerusalem Post) checked his U.S. Social Security number, 020-36-4537, and found four names using the same number: BENJAMIN NETYANYAHU, BENJAMIN NITAI, JOHN JAY SULLIVAN and JOHN JAY SULLIVAN, JR.. The newspaper was denied access to his S.S. account because it had a "Confidential" classification. Only five types of accounts have that classification -- employees of the CIA, FBI, IRS, criminals or terrorists. Take your pick!"

If this information is accurate, it not only implies that multiple names can be legally attached to the same SSN, but more

importantly, that "names" are no more relevant to federal identification of your person than the various nicknames you had in grade school. From the federal government's perspective, the legal reality seems to be the individual's NUMBER; his name(s) are just "AKA's" like "Big Daddy" or "Bugsy" that help confirm the primary identification (the SS NUMBER) but are otherwise of less legal significance than data on your weight or a high school photo of your face. In essence, it appears possible that your SSN is not an identifier so much as your primary (only?) "federal" reality.

In any case, as we've seen in the previous article, many constitutionalists argue that the Social Security Number (SSN) is the nexus that ties average Americans to the dictates of the federal government's administrative rules and regulations. If so, by minimizing or eliminating our use of the SSN, we may also minimize or even escape our alleged obligations to obey much of government's administrative rules and regulations. The following article explains one tactic to minimize our use of SSNs.

As you probably know, whenever you use your Social Security Number (SSN) on a financial account, like at your bank or stockbrokers, your money becomes easy pickin's for lawsuit-happy lawyers, the government, or a former spouse. You probably also know that if your SSN is not attached or connected with your financial accounts, it's nearly impossible for anyone (like the IRS) to find and seize your money. The major problem is getting a financial institution to open an account without the SSN!

Be not dismayed, there is a way to do it, and should the financial institution refuse to cooperate, then you may be able to SUE the pants off of them.

Here's the plan!

Step 1. Read, research, and if you choose, fill out the following Constructive Notice. This Constructive Notice simply outlines the law that permits you to open a Bank Account without a SSN.

CONSTRUCTIVE NOTICE
To: (Person and Institution being served)

YOU ARE BEING MADE AWARE BY

THIS CONSTRUCTIVE NOTICE THAT YOU ARE IN VIOLATION OF FEDERAL LAW IF YOU REFUSE TO:

1. Open a non-interest bearing bank account if the party wanting to open the account does not provide a Social Security Account Number or a taxpayer identification number; or

2. To provide your services to a client or potential client because the client or potential client does not provide a Social Security Account Number or a taxpayer identification number.

You personally, and the institution you represent, may be liable for damages and attorney's fees.

In accordance with Section 1 of Public Law 93-579, also known as the Privacy Act of 1974,¹ and Title 5 of the United States Code Annotated 552(a), also known as the Privacy Act, you are being informed of the following:

The right to privacy is a personal and fundamental right protected by the Constitution of the United States. You may maintain in your records such information about an individual as is relevant and necessary to accomplish a purpose required by statute or by executive order of the President of the United States.

Section 7 of the Privacy Act of 1974, specifically provides that it shall be unlawful for any Federal, State or Local government agency to deny any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose a Social Security Account Number.

"Right of Privacy is a personal right designed to protect persons from unlawful disclosure of personal information . . ." *CNA Financial Corporation v. Local 743*, 515 F. Supp. 942.

"In enacting Section 7 of the Privacy Act of 1974, Congress sought to curtail the expanding use of Social Security Account

Numbers by Federal and Local agencies, and by so doing, to eliminate the threat to individual privacy and confidentiality of information posed by common numerical identifiers." *Dole v. Wikon*, 529 F. Supp. 1343.

"It shall be unlawful for any Federal, State, or Local government agency to deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose a Social Security Account Number." *Supra*

"An agency is a relation created by express or implied contract or by law, whereby one party delegates the transaction of some lawful business with more or less discretionary power to another." *State Ex Real. Cities Service Gas v. Public Service Commission*, 85 SW 2d. 890.

If the institution you represent is a bank, you are advised that if such bank routinely collects information and provides such information to Federal, State, or Local government agencies, then such bank is an agency of the Government.

The 1976 Amendment to the Social Security Act, codified at 42 U.S.C., Section 301 et seq., 405 (c)(2) (i, iii), states that there are only four (4) instances where Social Security Account Numbers may be demanded. They are:

- "1. For tax matters;
- "2. To receive public assistance;
- "3. To obtain and use a

driver's license; and

"4. To register a motor vehicle."

You are advised that a non-interest-bearing account does not pertain to any of the above. Because the account pays no interest, there is no "need-to-know" on the part of the government.

In accordance with the Privacy Act of 1974, whenever an agency fails to comply with the law, the party wronged may bring Civil Action in the District Court of the United States against such agency. Should the Court determine that the agency acted in a manner which was intentional or willful, the agency shall be liable to the wronged party in an amount equal to the sum of:

A. Actual damages sustained, but in no case less than \$1,000; and

B. The cost of the action together with reasonable attorney's fees.

Constructive Notice Issued by:
(your signature, name and address)

Witness: (signature)

Witness: (signature)

Date:

Step 2. Take the Constructive Notice to a bank where no one knows you.

Step 3. Have available a form of ID that does not have your social security account num-

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ber on it. (Many states issue driver's licenses that do not have social security account numbers on them).

Step 4. Inform the bank representative of your intention to open a bank account without giving the bank your social security account number.

Step 5. Open a *non-interest-bearing* account. That is important!

Step 6. If the bank refuses to open your account, hand them a copy of the Constructive Notice and tell them you plan to sue them if they won't abide by the law!

There you have it. A safe and simple way to legally hide your money! Good luck and happy hiding.

Regardless of the author's opinion that this is a "safe and simple way to legally hide your money", there is something about "hiding" money that hints at fraud or criminal intent. That intent could conceivably be used against you in subsequent litigation. Therefore, it may be preferable to structure your "intent" such that you don't want to "hide" your money so much as legally limit your personal liability to unwarranted intrusions into your private affairs.

Further, don't automatically believe anyone who tells you any

legal procedure is inherently "safe". While it may be that the previous procedure for opening a SSN-less bank account is perfect, you'd be foolish to trust this procedure without thoroughly reviewing all the included case cites and legal references, as well as the SSN law in general.

Here in Texas, rumor holds that the trick to opening a bank account without a SSN is to do so with a bank chartered by the STATE rather than the Federal government. Perhaps, federally chartered banks are legally bound to use a SSN, while state chartered banks are not – at least with respect to non-interest bearing accounts.

¹ Partial text of Public Law 93-579, Sect. 7, 88 Stat. 1909 (Dec. 31, 1974):

"(a) (1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"(2) the provisions of paragraph (1) of this subsection shall not apply with respect to —"

"(A) any disclosure which is required by Federal statute, or

"(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure

was required under statute or regulation adopted prior to such date to verify the identity of an individual.

"(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

Paul Andrew Mitchell (pmitch@primenet.com) offered the following speculation on Public Law 93-579 (Privacy Act) over the Internet on Nov. 13, 1996:

"Congress deliberately failed to codify this statute in Title 5 of the United States Code. You will find it embedded at the end of the historical notes within the Privacy Act. When a government employee was sued for violating this Act, he asserted ignorance of the law as his defense. The court upheld this defense, thus creating an important exception to the general rule that ignorance of the law is no excuse. My reading of this decision is that the court was giving silent judicial notice to the fact that Congress actually "hid" the law; thus, the court's holding did not really overturn the maxim ('ignorance is no excuse'); it merely recognized that fraud vitiates everything, even the most solemn promises."

Point: If Mr. Mitchell's right and Congress intentionally concealed the law, it's obvious they're up to something. ■

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