

DATE: December 29, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 05-11641

DECISION OF ADMINISTRATIVE JUDGE

CAROL G. RICCIARDELLO

APPEARANCES

FOR GOVERNMENT

John B. Glendon, Esq., Department Counsel

FOR APPLICANT

David H. Shapiro, Esq.

SYNOPSIS

Applicant is a 50-year-old software configuration manager and has worked for a federal contractor for more than five years. He failed to file and pay his taxes for 3 to 4 years in the 1980s and again from 1995 to 2004. He found the event to be distasteful so he avoided it. When his security clearance became an issue he contacted a tax attorney to resolve his past tax issues. Applicant failed to mitigate the security concerns regarding Guideline F, financial considerations, Guideline J, criminal conduct and Guideline E, personal conduct. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On May 19, 2006, under the applicable Executive Order [\(1\)](#) and Department of Defense Directive, [\(2\)](#) DOHA issued a Statement of Reasons (SOR), detailing the basis for its decision-security concerns raised under Guideline F, (financial considerations), Guideline J (criminal conduct), Guideline E, (personal conduct) of the Directive. Applicant answered the SOR in writing on June 15, 2006, supplemented his answer on June 16, 2006, and elected to have a hearing before an administrative judge. In his answer, Applicant admitted all of the allegations under Guidelines F, admitted the allegations under Guideline E, but denied his actions were willful, and denied the allegations under Guideline J. The case was assigned to me on October 12, 2006. A notice of hearing was issued on October 27, 2006, scheduling the hearing for November 16, 2006. I conducted the hearing as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance. The Government offered six exhibits for admission in the record and were marked as Government Exhibits (GE) 1-6. The exhibits were admitted into evidence without objection. The Government also offered two exhibits for administrative notice, which was granted and the exhibits were labeled I and II. Applicant testified on his own behalf, called two witnesses, and offered six exhibits for admission into the record. They were marked as Applicant's Exhibits A-F and were admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on November 29, 2006.

FINDINGS OF FACT

Applicant's admissions to the allegations in the SOR, are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is 50 years old and has worked for a federal contractor as a software configuration manager for more than five years. Prior to then he worked in the same field, and early in his career he worked as a junior engineer. He is married, but separated and seeking a divorce. He has a daughter who is married.

In his sworn statement dated April 6, 2006, made to a special agent of the Federal Investigative Services, Applicant stated:

I have not filed my federal or state tax returns since 1994. The first time I failed to file my tax returns was in the early 1980s. Filing my tax returns were such a burden, I avoided filing them. I did not file my tax returns for three or four years in the early 1980s. In 1986 to 1987, after receiving notices from the Internal Revenue Service (IRS), I met with an IRS collection agent and filed tax returns for the years in which I had failed to file tax returns. I had to pay fines and the taxes due for those years; I do not recall how much I paid. I believe I filed my tax returns on time in 1986 and 1987, but after those years, I just got into the habit of not filing my tax returns. I did have a tax lien placed against me by the IRS in 1995. I paid off the taxes due and the lien was removed in 1997. This lien was for my 1991 taxes. I believe the taxes I owed from [19]88 to [19]90 were paid as part of this lien. Because I have not filed a federal or state tax return since 1995, I have received notices from the IRS for the period ending 12/31/1996 which I believe was singled out of the other years due to the fact that I worked as a contractor and did not file quarterly and because of stock sales reported to the IRS which had outstanding taxes due. The most current reminder I have for this year is dated 12/11/2004 and estimates the total tax, interest and penalties at \$7,825.66. I also received several notices from [state] Department of Revenue regarding taxes owed for the period ending 12/31/1999. On 7/15/2003, the [state] Department of Revenue took \$264.74 from my checking account for tax liability for the period ending 12/31/1999. I have not received a notice from [state] Department of Revenue regarding my taxes from 2000-2004. The more I put these tax filings off the bigger the problem became and the grater the inertia became that was keeping me from completing this task. I realize that failure to file my taxes is against the law but I rationalized waiting to do any of the returns until I collected all the information I wanted to collect in order to avoid missing deductions for things like my daughter["]s college which I knew entitled me to an education tax credit. I also had a lot of losses in the stock market and wanted to be able to list all of that information as well.

Applicant testified that he believed the first time he did not file his taxes was in the late 1980s.⁽³⁾ He then sought assistance from a tax attorney to help him file. He paid the taxes late with penalties and interest. Applicant was vague in his testimony on which years he failed to file in the 1980s.⁽⁴⁾ He testified he filed timely after his failures in the 1980s until 1995, when he stopped filing. However, his sworn testimony contradicts his sworn statement of April 6, 2006, when he clearly states how he failed to file again after 1987. Despite having months to prepare his case, he was unclear on what years he had not filed prior to 1995.⁽⁵⁾ I find his testimony in that regard was not credible.

Once Applicant had his tax attorney complete his late filings in the 1980s he believed the taxes were simple and he could save money by filing them himself. He paid approximately \$200 for the tax service. He then claimed the taxes were too complicated in 1996, so he did not file them himself, and did not seek assistance from his tax attorney, until ten years later.

Applicant first completed his security clearance application (SCA) on November 18, 2003. In the remarks section of the SCA, under paragraph 43 he stated: "I am currently working on completing tax forms dating back to 1995 and determine after allowable deductions, past due federal and state taxes." He went on to say: "This is a problem that I had in the past due to procrastination and nothing to do with any unwillingness to pay my taxes or a lack of patriotism." Applicant continues to state: "At this point it is still in my hands to deal with the outstanding amounts owed and I am trying to seek a reduction as well as apply deductions I am entitled to. One of the deductions includes a tax break for the complete funding my daughter's college education. I mention this and the additional information below, not because I think it is necessary for your investigation but in case there is a component of character judgment associated with your decision to grant me this security clearance and I believe this kind of detail could help make that determination." He then stated that he was working hard to finalize his divorce. He stated that he was planning to remarry and his pending

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nuptial "has been a catalyst for me to get my tax problem squared away." Applicant submitted a second SCA on May 17, 2004 with the same exact statement, no changes were made. [\(7\)](#)

Despite admitting his failure to file his tax returns on his SCA in November 2003 and, and promising to handle it, he did not contact his tax attorney until April 2005. He acknowledged that "the wake up call was that this was now going to affect my job. Up until that point, I thought the worst that can come out of this is that I'm going to end up paying a lot of money, which I had done in the past...." [\(8\)](#)

Applicant's explanation for his failure to file taxes was that he is a procrastinator and has a great deal of anxiety and avoidance issues regarding unpleasant tasks. [\(9\)](#) He blames his upbringing and alcoholic parents for emotional issues he developed in avoiding things he does not like. [\(10\)](#) He is a recovering alcoholic and he stopped drinking when he was 23 years old. [\(11\)](#) He has attended Alcoholics Anonymous and ALNON to help him with his problems. He has diagnosed himself and believes he has avoidance issues that are related to his background and caused him not to file his taxes. He has not confirmed his diagnosis with a mental health professional. He has not sought any treatment, other than attending AA and ALNON, for his avoidance issues that he believes caused him to procrastinate failing to do things he does not like. He claimed one of the reasons he has avoided seeking professional medical help is because he thought it would affect his security clearance. [\(12\)](#) In reference to seeking professional help he stated: "But I didn't know if that would exacerbate it and make it look like I had, you know, a serious mental problem or something, that's probably why I've been avoiding doing that." [\(13\)](#)

Applicant's repeated failure to file his tax returns for two lengthy periods of time are criminal violations of federal law. [\(14\)](#) He did not withhold enough money from his pay, and because his salary was increasing, so was his tax liability. He was aware that each of the tax years, he failed to withhold enough money to cover his tax liability and failed to make any changes during this ten-year span. [\(15\)](#) He also admitted this had happened in the past prior to 1995. [\(16\)](#) Applicant continued to contribute to his 401(k) and Individual Retirement Account (IRA) during this time. He continued to make investments and admitted being aware that he sold stocks that had a tax consequence during this period. In 1998, he traveled to Chile, Argentina, and Peru. In 2000-2001 he traveled to the United Republic of Tanzania, Kenya and Holland. In 2002, he traveled to Portugal, Spain and Britain. It is obviously these trips needed careful planning and fiscal resources.

I find Applicant knew he had a legal obligation to file his tax returns. He had been employed since he was 13 years old and knew of his obligation. [\(17\)](#) He claims he did not intend to break the law. [\(18\)](#) However, he was aware that his failure resulted in penalties. He believes he was naive about the process. He claimed he first learned that his failures were criminal from the investigator with whom he had been interviewed in 2003. Upon learning this information it took him another seventeen months to contact his tax attorney. He contacted him in April 2005. His tax attorney assisted Applicant in filing the overdue returns and filing his 2005 taxes on time. The IRS preferred he wait and determine his total tax debt before negotiating a repayment plan. [\(19\)](#) In November 2005, he paid a lump sum of approximately \$8,000 toward his tax debt to prevent his wages from being garnished because the IRS was going to implement a tax lien. [\(20\)](#) Applicant paid down his debt to below \$25,000, so he could reach an agreement with the IRS for repayment through an installment plan. [\(21\)](#) The IRS is more amenable to an installment payment plan when the debt is below \$25,000. Applicant has taken two loans against his 401(k). [\(22\)](#) The first was \$30,000, of which \$10,000 was used to finance his daughter's wedding in 2005 and the remaining \$20,000 was paid to his wife as part of a proposed divorce settlement. [\(23\)](#) He and his wife are still married. He took another loan from his 401(k) for \$15,000 to pay taxes. He also financed \$10,000 of his repayment of taxes from two credit cards. He claims his past actions of failing to file and pay his taxes on time will never happen again. [\(24\)](#) He intends on having his tax attorney assist him with his future tax returns.

Applicant has paid approximately \$36,000 so far to reduce his tax debt. He has approximately \$23,000 remaining to pay for his overdue taxes, penalties and interest. His installment agreement with the IRS is to pay \$500 a month for the next 60 months. [\(25\)](#) He believed he started paying on that plan in August of 2006. He also pays \$650 to his wife each month.

Applicant has worked for his supervisor for five and a half years. His supervisor believes him to be an essential member

of the team. He is well organized and strictly follows the rules regarding building requirements, ethics and attending training. Applicant has handled both unclassified and classified material while having a security clearance. (26) His supervisor believes Applicant is very conscientious about working with classified information and he has not had any issues with him regarding handling security or classified matters. (27) He is considered reliable and trustworthy. (28) Applicant had advised his supervisor that he had not filed his tax returns "for a couple of years." (29) Applicant did not go into the matter any further. (30) Applicant did not tell him he failed to file for ten years. (31) He admitted that his failure to file for ten years does raise trustworthiness concerns, but considered it an anomaly. (32)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant. (33) The government has the burden of proving controverted facts. (34) The burden of proof is something less than a preponderance of evidence. (35) Once the government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him. (36) Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision. (37)

No one has a right to a security clearance (38) and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." (39) Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. (40) The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. (41) It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Based upon consideration of the evidence, I find the following adjudicative guideline most pertinent to the evaluation of the facts in this case:

Guideline F- Financial Considerations-A security concern exists when a person has significant delinquent debts. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligation to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

Guideline E-Personal Conduct is a security concern when an individual's conduct involves questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that could indicate that the person may not properly safeguard classified information.

Guideline J-Criminal Conduct is a security concern because a history or pattern of criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. Willingness to abide by rules is an essential qualification for eligibility for access to the nation's secrets. A history of illegal behavior indicates an individual may be inclined to

break, disregard, or fail to comply with regulations, practices, or procedures concerning safeguarding and handling classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions below.

CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards. The government has established a *prima facie* case for disqualification under Guidelines F, J and E.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1 (*A history of not meeting financial obligations*), FC DC E2.A6.1.2.2 (*Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust*), and FC DC E2.A6.1.2.3 (*Inability or unwillingness to satisfy debts*), all apply in this case. Applicant has a long history, for two separate periods, including years in the late 1980s and from 1995 to 2004 of failing to file his income taxes and pay his income taxes. It was not until he became concerned about the potential effect on his job, did he begin action to resolve his debts. He under withheld money and failed to change his withholdings for a period of ten years. He made investments during these periods, contributed to his 401(k), and traveled extensively throughout the world. Applicant clearly benefitted during those years from the additional money he retained by not paying his taxes.

I have considered all of the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC E2.A6.1.3.1 (*The behavior was not recent*), FC MC E2.A6.1.3.2 (*It was an isolated incident*), FC MC E2.A6.1.3.3 (*The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*), FC MC E2.A6.1.3.4 (*The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*), and FC MC E2.A6.1.3.6 (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Applicant intentionally failed to file and pay his income taxes on time for a ten year period, and prior to then for approximately 3-4 years. The most recent year he failed to file and pay his taxes was 2004. I find his failures to be recent. Due to the many years he avoided his tax filings and debts, his actions were not isolated. Therefore, I find his debts are both recent and not isolated and FC MC E2.A6.1.3.1 and FC MC E2.A6.1.3.2 do not apply.

I have considered FC MC E2.A6.1.3.3 and Applicant's claim he is a procrastinator and has "avoidance" issues when doing his taxes. Despite his anxiety Applicant's behavior was very much within his control, as he had demonstrated in the past, by hiring a tax attorney. In the 1980s he failed to file and finally hired help. He was aware of this avenue, but chose not to take it. These were choices he made and were well within his control. Even if the situation caused him great emotional angst, he knew how to resolve it with expert help, as he had done in past. I find FC MC E2.6.1.3.3 does not apply.

Applicant finally sought assistance to file his taxes and start a payment plan. He has paid approximately \$36,000 and has another \$23,000 left to pay. He has borrowed money against his 401(k) and has used his credit card to pay down his debt. However, he must repay these debts with interest. Applicant had the financial resources to pay his taxes, but chose not to so. By not doing so he retained extra money that he used to invest and take trips. He has loans for other commitments, such as paying for his daughter's wedding and paying his wife. He only recently set up a payment plan with the IRS. Based on his extensive background of procrastination and avoidance, he has not shown a significant period of time that he has committed himself to paying his taxes. Based on his own claims that he avoids things he does not like, his track record is weak that he will continue his plan. This is supported by his first failure in the 1980s to file and pay his taxes. Once it was resolved he began to follow the same path and stop filing and paying. He did not seek the assistance of his tax attorney after his 1980s taxes were resolved. He admits he has "avoidance" issues, but has not sought the help of a mental health professional. It is clear that Applicant takes actions only when something bad is going to happen, such as a tax lien will garnish his wages, or he will not obtain a security clearance. These are not the actions of a financially responsible person. Although he has made some progress in resolving his delinquencies, I am not

convinced he will continue with his plan once the threat of the loss of his job no longer exists. Although I find FC MC E2.A6.1.3.4 and marginally FC MC E2.A6.1.3.6 apply, they are not enough to overcome his lengthy period of inaction. I find satisfying his tax debt appears to take a lesser priority in his life, as evidenced by his delay in addressing the problem for over a year after learning his conduct was criminal. Applicant's two lengthy periods of failing to file and pay his taxes, his failure to withhold an appropriate amount from his pay, his procrastination and avoidance issues reflect negatively on his ability to deal with situations that he finds distasteful that may arise in the area of national security. A person who is likely to be irresponsible in one aspect of their life, in this case in dealing with his financial responsibilities, may act irresponsibly in other aspects.

Criminal Conduct Disqualifying Condition (CC DC) E2.A10.1.2.1 (*Allegations or admissions of criminal conduct, regardless of whether the person was formally charged*), and CC DC E2.A10.1.2.2 (*A single serious crime or multiple lesser offenses*) applies. Applicant's failure to timely file his state and federal income tax returns were violations of state and federal law. The fact that he was not charged is inconsequential. His actions were illegal and criminal.

I have considered all of the mitigating conditions and especially considered Criminal Conduct Mitigating Condition (CC MC) E2.A10.1.3.1 (*The criminal behavior was not recent*), CC MC E2.A10.1.3.2 (*The crime was an isolated incident*), CC MC E2.A10.1.3.4 (*The person did not voluntarily commit the act and /or the factors leading to the violation and are not likely to recur*) and CC MC E2.A10.1.3.6 (*There is clear evidence of successful rehabilitation*). Applicant's failure to file his income taxes spanned a 2-3 year period and another ten-year period. His most recent criminal failure to file was in 2004. The actions are recent and not isolated. Despite his assertions that he is a procrastinator and he avoided doing tasks he did not like, his crimes were voluntarily and intentional. He intends on having his tax attorney assist him with his taxes in the future. However, he has already shown in the past that having someone assist him does not relieve him of the responsibility of completing the returns timely. His conduct has been repeated during two significant time periods. In the 1980s he failed to complete his tax returns. He obtained assistance, complied and did it all over again a few years later for a period of ten years. He blames his conduct on his upbringing and avoidance issues he developed during his formative years. Yet, he has not sought any counseling or treatment or even a medical diagnosis. If his claim is to be believed, that he was unaware that his actions were illegal until discussing them with an investigator in 2003, he still did not take any action for well over a year to be in compliance and pay his just debts. Instead he continued to put them off, even after knowing he had broken the law. He has shown through his actions that paying his taxes was not a priority until he believed it would have an impact on his job. I find CC MC E2.A10.1.3.4 and CC MC E2.A10.1.3.6 do not apply. Applicant has a repayment plan to satisfy his past debts, but it was only when his job was in jeopardy did he take action. These actions are not clear evidence of successful rehabilitation.

Based on all the evidence, I have considered Personal Conduct Disqualifying Condition (PC DC) E2.A5.1.2.4 (*Personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation or pressure*) and PC DC E2.A5.1.2.5 (*A pattern of dishonesty or rule violations*) and conclude both apply. Applicant has two significant periods of times in his life where he failed to file his taxes. He knew of his responsibility to do so, but made a conscious choice not to because it was a task he did not like. Regardless of whether he was aware that his conduct violated criminal law, he clearly knew he was required to comply. This type of conduct is a grave concern when dealing with risks and vulnerability issues concerning our national security. The concern is when Applicant is required to perform a task at work that relates to classified information and he finds it distasteful. He is a self-admitted procrastinator with avoidance issues, none of which have been addressed professionally. Applicant believes he was emotionally incapable of addressing distasteful tasks because of his past, thereby affecting his ability to file his taxes. Although his supervisor testified that Applicant follows all the rules and regulations at work, it is apparent that he is not consistent in the rest of his life. One who is entrusted with the nation's secrets, must also be trusted to abide by the laws, despite how unpleasant or distasteful they may be. Applicant's attitude and history create too much of a risk to ensure that he is emotionally stable to comply with all the rules and regulations and not just those to his liking.

I have considered all of the mitigating conditions and especially considered Personal Conduct Mitigating Condition (PC MC) E2.A5.A.3.5 (*The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*) and conclude none apply. Although Applicant is repaying his past taxes, he failed to provide any indication of positive steps he has taken to reduce his vulnerability to coercion and exploitation.

The Whole Person

In all adjudications, the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered the whole person and specifically Applicant's age and that he twice failed to file his taxes for significant periods of time. I considered that after the first occurrence was settled, he resorted to the same conduct. I also considered that even after becoming aware that his failures were criminal, he delayed for over a year in contacting his tax attorney. I also considered Applicant was aware he was under-withholding on his pay, but did not correct the problem. He is considered by his supervisor to be a trustworthy reliable person and that Applicant's actions were an anomaly. After carefully reviewing all of these and all of the other facts presented, I find Applicant failed to mitigate the security concerns under Guideline F, financial considerations, Guideline J, criminal conduct, and Guideline E, personal conduct. Therefore, I am persuaded by the totality of the evidence in this case, that it is not clearly consistent with the national interest to grant Applicant a security clearance. Accordingly, Guidelines F, J and E are decided against Applicant.

FORMAL FINDINGS

Formal Findings for or against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a-1.j Against Applicant

Paragraph 2. Guideline J: AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

Subparagraph 2.b: Against Applicant

Paragraph 3. Guideline E: AGAINST APPLICANT

Subparagraph 3.a: Against Applicant

Subparagraph 3.b: Against Applicant

DECISION

In light of all of the circumstances in this case, it is clearly not consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Carol G. Ricciardello

Administrative Judge

1. Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960) as amended and modified.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified.
3. When referring to "taxes" throughout this decision this term includes both state and federal income taxes.

4. Tr. 132.

5. *Id.*

6. GE 2.

7. GE 1.

8. Tr. 112-113.

9. Tr. 80.

10. *Id.*

11. Tr. 81.

12. Tr. 120.

13. *Id.*

14. 26 U.S.C. § 7203.

15. Tr. 95.

16. *Id.*

17. Tr. 110.

18. Tr. 81.

19. Tr. 59.

20. Tr. 57.

21. Tr. 60.

22. Tr. 90, 133-135.

23. *Id.*

24. Tr. 82.

25. Tr. 60.

26. There was some question as to if Applicant held an interim clearance or a full clearance. The issue was not resolved.

27. Tr. 173.

28. Tr. 175.

29. Tr. 176.

30. *Id.*

31. *Id.*

32. Tr. 177.

33. ISCR Case No. 96-0277 at 2 (App. Bd. Jul 11, 1997).
34. ISCR Case No. 97-0016 at 3 (App. Bd. Dec. 31, 1997); Directive, Enclosure 3, ¶ E3.1.14.
35. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).
36. ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995); Directive, Enclosure 3, ¶ E3.1.15.
37. ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995); Directive, Enclosure 3, ¶ E3.1.15.
38. *Egan*, 484 U.S. at 531.
39. *Id.*
40. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
41. Executive Order 10865 § 7.