

PRIVACY ACT LIMITATIONS ON SOCIAL SECURITY NUMBER USAGE

Since many people objected to the extensive loss of privacy, which accompanied the use of computers, Congress responded by passing the Privacy Act. It states quite simply that: "It shall be unlawful ... 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." Title 5 of the United States Code, Annotated 552(a) is known as the Privacy Act. Due to it, courts have ruled in part:

"Right of privacy is a personal right designed to protect persons from unwanted disclosure of personal information..." CNA Financial Corporation v. Local 743. D.C., Ill., 1981, 515 F. Supp. 942, III.

The District Court in Delaware held that the Privacy Act:

"...was enacted for (the) purpose of curtailing the expanding use of social security numbers ...and to eliminate the threat to individual privacy and confidentiality of information posed by common numerical identifiers." Doyle v. Wilson. D.C., Del., 1982, 529 G. Supp. 1343.

In the strongly worded 'Guideline and Regulations for Maintenance of Privacy and Protection of Records on Individuals', it is stated:

"(a)(1) It shall be unlawful... 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."

Should a right, benefit or privilege be denied you when you decline to provide your social security number, you may file suit and are guaranteed to win a judgment of \$1,000 plus costs and attorney fees. This will be paid by the individual, business or government agency who wronged you. The Privacy Act states:

"(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of \$1,000.00; and (B) the costs of the action together with reasonable attorney fees as determined by the court."

Courts have ruled that there are only four instances when social security numbers must be provided. These are:

- 1) For tax matters.
- 2) To receive public assistance.
- 3) To obtain and use a driver's license.
- 4) To register a motor vehicle.

In any situation not listed above, when you refuse to give your social security number, simply present this document to any person who seems to need one. Invite them to make copies. Point out the \$1,000 penalty which is guaranteed upon showing that your rights were violated under this act. Point out that an individual may be personally required to pay the \$1,000 fine if he/she is aware of the Privacy Act and refuses to follow it. In Doyle v. Wilson the court states:

"assuming that plaintiffs refusal to disclose his social security number was a clearly established right, where defendants could not as reasonable persons have been aware of that right and could not have recognized that any effort to compel disclosure of number or deny plaintiff his refund violated federal law, damages against defendants were barred..." Doyle v. Wilson, B.C., Del., 1982, 529 F. Supp. 1343.

It is quite clear that the individuals must be able to show that they could not have been aware of the Privacy Act and could not have possibly realized that their actions were in violation of federal law in order to escape the \$1,000.00 penalty.