

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 11-00224-01-CR-W-DW
	)	
JOSHUA SIMONSON,	)	
	)	
Defendant.	)	

**MOTION TO CONTINUE THE TRIAL SETTING  
AND SUGGESTIONS IN SUPPORT**

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COMES NOW Defendant Joshua Simonson, by and through counsel, and hereby moves the Court to strike this matter from the October 24, 2011 docket for trial and set the matter for the April 2012 regular criminal docket. As grounds, Defendant states and submits:

1. The Defendant and his co-defendant spouse are charged with multiple counts of federal criminal violations arising from an alleged income tax refund scheme. If convicted, both face not inconsequential periods of incarceration.
2. The charges in the case are serious and complicated and counsel needs the additional time to go over the records with the Defendant and prepare the matter for trial. Additionally, it appears that there may be overlapping evidence in

a separate case involving multiple other defendants where the same alleged common scheme is involved. The latter case may involve some common witnesses that will further complicate potential trial preparation in this case.

3. The defense in this case will likely be “good faith” acts on the part of the defendant. The defense is consequently of a nature such that counsel must re-familiarize himself with many and varied complicated sections of the internal revenue code, some of which, as applied to this case, are arguably convoluted and somewhat obscure in their application.

4. Defendant has consulted with codefendant’s counsel, Mr. Seacord, and he does not object to this request and concurs in it and agrees that the case should be continued until at least April 2012 for the reasons stated above. Counsel has also coordinated with AUSA Dan Nelson and he has stated that the government has no objection to this request.

5. Both defendants are currently on signature bonds and neither will suffer any prejudice from this delay and concur that it is in their respective best interests to grant the motion. Defendants understand that any defense requested delay tolls the statutory requirement that trial commence within 70 days, acknowledge same, and in any event waive any such claims should they be arguably applicable.

6. Counsel believes in good faith that failure to grant this motion will likely

prevent counsel from being adequately prepared for trial on the current setting, and thereby deny defendant Joshua Simonson effective assistance of counsel.

7. Counsel submits that defendant is entitled to a continuance under the provisions of Title 18, United States Code, Section 3161(h)(8)(B), in that: 1) trial on the current docket setting would result in a miscarriage of justice; 2) the case is significant in terms of the outcome because of the serious nature of the charges and it is unreasonable to expect counsel and the defendant to be ready for trial by the currently scheduled date; and, 3) failure to grant the continuance would likely prevent undersigned counsel from being able to adequately complete vital work that needs to be done and prepare and present the defense case in a meaningful and constitutionally adequate means.

WHEREFORE, Defendant moves the Court to strike this matter from the current trial setting and continue the matter to the April 2012 regular trial docket.

Respectfully submitted:

/s/

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused to be emailed via electronic filing system (ECF) on Wednesday, October 12, 2011 to all counsel of record, including but not limited to:

Dan Nelson  
Assistant United States Attorney  
1201 Walnut -- Suite 2300  
Kansas City, Missouri 64106

So certified:

/s/  
JOHN R. OSGOOD