

APPENDIX

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APPENDIX A

United States Court of Appeals for the Fifth
Circuit

No. 24-60525

ANTHONY DWAYNE WILLIAMS,

Petitioner – Appellant,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent – Appellee.

Appeal from the Tax Court, Internal Revenue Service
Agency No. 10275-23L

Filed August 7, 2025

Before Jones and Graves, Circuit Judges, and
Rodriguez, District Judge.*

Per Curiam:**

Pro se petitioner Anthony Dwayne Williams appeals the final decision of the Tax Court granting summary judgment to the Commissioner of the Internal Revenue Service, sustaining the seizure of his state tax refund in partial satisfaction of a previous

* United States District Judge for the Southern District of Texas, sitting by designation.

** This opinion is not designated for publication. See 5th Cir. R. 47.5.

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frivolous tax submission penalty of \$5,000 pertaining to his 2015 return, and imposing a \$2,500 sanction. See 26 U.S.C. §§ 6702(a), 6673(a)(1). This court has considered this appeal on the basis of the briefs, the administrative record, and the applicable law. Having done so, the order of the Tax Court is AFFIRMED.

APPENDIX B



United States Tax Court
Washington, DC 20217

ANTHONY DWAYNE WILLIAMS		<i>Entered and Served</i>
		<i>07/22/24</i>
Petitioner		
v.		Docket No. 10275-23L
COMMISSIONER OF INTERNAL REVENUE		
Respondent		

ORDER AND DECISION

On June 27, 2023, petitioner timely filed a Petition in this case. Petitioner seeks review of a Notice of Determination Concerning Collection Actions Under IRS Sections 6320 or 6330 (notice of determination), dated June 5, 2023.¹ The notice of determination sustained the seizure of petitioner's state tax refund with respect to his unpaid tax liability

¹ Unless otherwise indicated, all statutory references are to the Internal Revenue Code, Title 26 U.S.C. (section or I.R.C.), in effect at all relevant times, all regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and all Rule references are to the Tax Court Rules of Practice and Procedure.

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from a section 6702(a) Frivolous Tax Submissions Penalty for 2015. By Order served October 10, 2023, this case was assigned to the undersigned for disposition

By Order served November 17, 2023, the Court directed the parties to comply with Rule 93 and file a stipulated administrative record. If that was not possible the Court directed respondent to file the entire administrative record appropriately certified as to its genuineness. In that Order the Court further directed petitioner, if he asserted that the administrative record filed as ordered was not complete, to move on or before February 5, 2024, to complete or supplement the record.

On December 20, 2023, respondent filed a Notice of Filing of the Administrative Record, a Certificate as to the Genuineness of the Administrative Record, and the Administrative Record. Petitioner filed a Notice of Objection to the Certificate as to the Genuineness of the Administrative Record on January 28, 2024, and respondent filed a Reply to Notice of Objection to Certificate as to the Genuineness of the Administrative Record. Petitioner did not file a motion to complete or supplement the record.

On May 29, 2024, respondent filed a Motion for Summary Judgment (motion) under Rule 121. Respondent filed in support of the motion a declaration of Adam R. Fisher, Internal Revenue Service (IRS)²

² The Court uses the term “IRS” to refer to administrative actions taken outside of these proceedings. The Court uses the term “respondent” to refer to the Commissioner of Internal Revenue, who is the head of the IRS and is respondent in this case, and to refer to actions

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Return Integrity Verification Operations Supervisory Tax Examiner, as well as a memorandum. In the motion respondent moved the Court to grant respondent's motion and requested that the Court sanction petitioner pursuant to section 6673(a)(1). On July 11, 2024, petitioner filed an Opposition to Motion for Summary Judgment, a Notice of Objection to the declaration of Adam R. Fisher, and a declaration of Anthony D. Williams in support of petitioner's Opposition to Motion for Summary Judgment.

Upon review of the record on respondent's motion, the Court concludes that there are not any disputes as to any genuine issues of material fact and that respondent is entitled to judgment as a matter of law. Further, as discussed below, the Court will impose sanctions on petitioner pursuant to section 6673(a)(1) in the amount of \$2,500.

Background

Petitioner resided in Louisiana at the time the Petition was filed with the Court. The administrative record establishes the following.

I. Petitioner's 2015 Tax Filings

With respect to tax year 2015, petitioner submitted to the IRS a purported joint³ Form 1040 federal income tax return on July 13, 2018. On February 27,

taken in connection with this case.

³ Petitioner's spouse at the time of the filing of the 2015 return is not a party to this case. However, the Form 1040 submitted by petitioner bears what appears to be her signature.

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2019, petitioner submitted a signed copy of that same purported joint Form 1040 for tax year 2015 to the IRS.

On the joint Form 1040 petitioner reported adjusted gross income of \$0, claimed \$3,822.44 in federal income tax withholdings from Forms W-2 and 1099, excess social security and tier 1 RRTA tax withholdings of \$2234.91. Attached to his Form 1040, petitioner included five⁴ Forms 4852, Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions From Pensions Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. In Box 9 of each Form 4852 petitioner wrote:

I hereby deny and refute any allegation that a §3401 or §3121 employer-employee transaction occurred. No payment(s) was made nor received herein, which is within the meaning of §3401 or §3121 “wages.” Items 7e, f, h, i are correct taken from the original Form W-2.

On each Form 4852 in box 10 in response to the question “[e]xplain your efforts to obtain Form W-2, Form 1099-R, or Form W-2c, Corrected Wage and Tax Statement” petitioner wrote:

None. You are hereby being informed. No statutory employer-employee transaction existed under §3401 or §3121 for which a Form W-2 applies. No relationship exists between the parties and the United States. Both parties are (Non-federal entities).

⁴ Petitioner also attached one Form 4852 on behalf of his then-spouse.

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Petitioner also attached what he purported to be five corrected Forms 1099-MISC, Miscellaneous Income, and two corrected Forms 1099-INT, Interest Income. Petitioner signed each form and dated them July 13, 2018. On each purported corrected Form 1099-MISC petitioner wrote:

The above form is not intended to represent a corrected Form 1099-MISC filed by the party identified as "PAYER".

This correcting Form 1099-MISC is being submitted by the party identified above as the "RECIPIENT" to "REBUT" the original Form 1099-MISC document known to have been submitted by "PAYER" to the IRS which erroneously alleges a payment or payments made to "RECIPIENT" was made in the course of a "trade or business", as defined by USC Title 26 section §7701(a)(26) as, "the performance of the functions of a public office"

Neither the "PAYER" nor "RECIPIENT" engaged in any transaction(s) with each other that were made in the course of a "trade or business". This correcting form was meant to ends (sic) any such presumption. Both parties are (Non-federal entities). No relationship exists (sic) between the parties and the United States.

Under the penalties of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true correct, and complete.

On each purported corrected Form 1099-INT petitioner wrote, signed, and dated substantially the

same text as above.

II. *Examination of Petitioner's 2015 Tax Filings*

The IRS opened an examination of petitioner's 2015 tax year and sent petitioner a Letter 3176C, dated December 19, 2019, informing petitioner that he "filed a purported tax return for the tax periods . . . that claimed one or more frivolous positions or reflected a desire to delay or impede administration of the tax laws." The letter warned him that if he did not correct his return, the IRS would assess a \$5,000 penalty against him pursuant to section 6702, Frivolous Tax Submissions. The IRS directed him to withdraw his returns within 30 days from the date of the letter and stated that if he did not do so, or if he submitted additional documents that asserted a frivolous position, the IRS would assess the above-referenced penalty against him. In the letter the IRS provided additional information about what types of positions the IRS identified as frivolous, including a web address to IRS Notice 2010-33.

Petitioner responded in a letter dated January 9, 2020, stating that he would do his best to correct the error but requested that the IRS point out exactly what part of the 2015 tax return contained the error. Although petitioner sent the letter he did not withdraw his 2015 tax filings.

III. *Section 6702(a) Penalty and Approval*

In the course of the examination of petitioner's 2015 tax year, the IRS employee conducting petitioner's examination determined to assert the section 6702(a) penalty of \$5,000. She did so after petitioner failed to withdraw his tax filings that the IRS asserted

included frivolous positions.

On August 12, 2020, Supervisory Tax Examiner Adam R. Fisher signed a Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, approving the section 6702(a) penalty of \$5,000. In his declaration, Mr. Fisher stated that he was the immediate supervisor of the IRS employee who initially determined to assert the section 6702(a) penalty, and that he personally approved that penalty in writing, as evidenced by his signature on the above-referenced Form 8278.

Mr. Fisher further stated in his declaration that (1) he had personal knowledge of the IRS's recordkeeping system, (2) Form 8278 was kept in the course of the IRS's regularly conducted activity and it is in the IRS's regular practice to keep such records, (3) Form 8278 was made at or near the time of the occurrence of the matters set forth in it, and (4) these facts were known to him to be true to the best of his knowledge and belief.

On December 21, 2020, the IRS assessed a \$5,000.00 penalty against petitioner pursuant to section 6702(a).

IV. *Seizure of Petitioner's State Tax Refund and CDP Hearing.*

On October 4, 2021, the IRS issued petitioner a CP92, Notice of seizure of your state tax refund and of your right to a hearing with respect to petitioner's 2015 tax liability stemming from the section 6702(a) civil penalty. The notice advised petitioner of his right to request a CDP hearing.

Petitioner timely submitted a Form 12153, Request for a Collection Due Process or Equivalent Hearing, dated October 30, 2021. In response to section 6, “[b]asis for hearing request,” petitioner checked the box for proposed levy or actual levy. In response to section 8, “[c]heck the most appropriate box for the reason you disagree with the filing of the lien or the levy,” petitioner checked the boxes for a lien discharge and withdrawal. He also checked the box titled “Other” and wrote:

I am not employed in “trade or business” as defined by statute. I did not engage in a privileged federal (economic) activity that is subject to a federal income tax under the excise tax law of the United States. I certainly did not agree knowingly, willingly or voluntarily offer to give as a gift or otherwise my property (money) to the United States. I disagreed with your assessment, therefore I request a Collection Due Process Hearing (CDP) hearing (sic) to prove my claim. Please see my attached “89 page MEMORAN-DUM IN OPPOSITION TO RESPONDENT’S (IRS) INTENT TO LEVY” to be used as evidence in the U.S. Tax Court or any other federal district, state or local court where a lawsuit may be filed.

Petitioner also sent the IRS a letter dated October 30, 2021, challenging the seizure of his state tax refund, and attached to his letter a memorandum opposing the seizure. Petitioner indicated in his letter that the memorandum presented additional information and facts as to why he believed that his property (earnings) should not be subject to the federal income (excise) tax and why the seizure should be

permanently dismissed. He challenged the appropriateness of the collection actions and the underlying liability.

V. *CDP Hearing*

Petitioner's CDP hearing request was assigned to an IRS Appeals⁵ officer (AO). The AO verified that she did not have prior involvement with petitioner for the tax year at issue in this case.

On November 9, 2022, the AO sent petitioner a letter informing him that Appeals received his request for a CDP hearing and scheduled a telephone hearing. In the letter the AO wrote that she could consider during the hearing (1) whether the IRS met all the requirements of applicable law or administrative procedure, (2) any legitimate issue petitioner wished to discuss including collection alternatives, challenges to the appropriateness of the collection action, or spousal defenses, and (3) whether he owed the amount due but only if he did not receive a statutory notice of deficiency or otherwise have an opportunity to dispute his liability with Appeals. The AO requested that petitioner submit a completed Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, and signed federal income tax returns for tax years 2015, 2020, and 2021, or financial documentation if petitioner did not file a return because his yearly income was below the amount for

⁵ On July 1, 2019, the IRS Office of Appeals was renamed the IRS Independent Office of Appeals. See Taxpayer First Act, Pub. L. No. 116-25, § 1001, 133 Stat. 981, 983 (2019). We will use the name in effect at the times relevant to this case, i.e., Appeals.

which a return was required to be filed. The AO informed petitioner that he was entitled to a copy of the administrative file. She further informed petitioner that if he did not amend or withdraw his hearing request she would return his case to Collection and he may be subject to another \$5,000 penalty pursuant to section 6702(b) if he did not amend or withdraw his hearing request.

Prior to the CDP hearing, the AO and petitioner exchanged correspondence and the AO provided petitioner a copy of the administrative file in his case and gave petitioner an opportunity to review the file. Petitioner did not provide any of the requested financial documentation to the AO.

The AO held the CDP hearing with petitioner on March 14, 2023. Petitioner challenged the underlying liability with respect to the section 6702(a) penalty and continued to assert frivolous arguments. He did not provide any of the requested financial documentation nor did he propose any collection alternatives. After the CDP hearing the AO issued to petitioner the notice of determination, upon which this case is based, sustaining the seizure of petitioner's state tax refund with respect to his unpaid tax liability from a section 6702(a) penalty for tax year 2015.

VI. *Petitioner's Arguments*

In the Petition, petitioner indicated that he did not receive a statutory notice of deficiency for the tax liability, that he contested the underlying liability arising from the section 6702 penalty at his CDP hearing, and that the AO abused her discretion in determining to proceed with collection without making

the requisite verification under section 6330(c)(1) that all legal and procedural requirements had been met. Petitioner made a number of additional arguments in his Notice of Objection to Certificate as to the Genuineness of the Administrative Record and Opposition to Motion for Summary Judgment, which the Court will address below.

Discussion

I. *Summary Judgment*

Summary judgment is intended to expedite litigation and avoid unnecessary and expensive trials. *Florida Peach Corp. v. Commissioner*, 90 T.C. 678, 681 (1988). Either party may move for summary judgment upon all or any part of the legal issues in controversy. Rule 121(a). The Court may grant summary judgment only if the movant “shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Rule 121(a)(2).

Respondent, as the moving party, bears the burden of proving that no genuine dispute exists as to any material fact and that respondent is entitled to judgment as a matter of law. See *FPL Grp., Inc. v. Commissioner*, 115 T.C. 554, 559 (2000); *Bond v. Commissioner*, 100 T.C. 32, 36 (1993); *Naftel v. Commissioner*, 85 T.C. 527, 529. In deciding whether to grant summary judgment, the factual materials and inferences drawn from them must be considered in the light most favorable to the nonmoving party. *FPL Grp., Inc. v. Commissioner*, 115 T.C. at 559; *Bond v. Commissioner*, 100 T.C. at 36; *Naftel v. Commissioner*, 85 T.C. at 529. The party opposing summary

judgment must set forth specific facts which show that a question of genuine material fact exists and may not rely merely on allegations or denials in the pleadings. Rule 121(d); *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986); *Grant Creek Water Works, Ltd. v. Commissioner*, 91 T.C. 322, 325 (1988); *King v. Commissioner*, 87 T.C. 1213, 1217 (1986).

II. *Hearings Under Section 6330*

Section 6331(a) authorizes the IRS to levy upon property and property rights of a taxpayer liable for taxes who fails to pay those taxes within 10 days after notice and demand for payment. The IRS is generally required to notify the taxpayer in writing of his or her right to a hearing before a levy is made. I.R.C. § 6330(a)(1). However, when the IRS has served a levy on a state to collect a federal tax liability from a state tax refund there is not any requirement under section 6330 for a pre-levy hearing, but the taxpayer shall be informed of their right to a hearing and given the opportunity for a hearing within a reasonable period after the levy. I.R.C. § 6330(f)(2); *Treas. Reg. § 301.6330-1(a)(2)*.

If a CDP hearing is requested, the hearing is to be conducted by Appeals. I.R.C. § 6330(b)(1). At the hearing the AO conducting it must verify that the requirements of any applicable law or administrative procedure have been met. I.R.C. § 6330(c)(1). The taxpayer may raise at the CDP hearing "any relevant issue relating to the unpaid tax or the proposed levy," including appropriate spousal defenses; challenges to the appropriateness of collection actions; and offers of collection alternatives. I.R.C. § 6330(c)(2)(A). Within 30 days after Appeals issues a notice of determination

the taxpayer may appeal the determination to the Court. I.R.C. § 6330(d)(1).

In reviewing an IRS administrative determination in a CDP case, if the underlying tax liability is properly in dispute, the Court reviews the determination regarding the underlying tax liability de novo. *Goza v. Commissioner*, 114 T.C. 176, 181–82 (2000). The Court reviews all other determinations for abuse of discretion. *Id.* at 182. Abuse of discretion exists when a determination is arbitrary, capricious, or without sound basis in fact or law. See *Murphy v. Commissioner*, 125 T.C. 301, 320 (2005), *aff'd*, 469 F.3d 27 (1st Cir. 2006).

Our review of CDP cases is limited to issues that taxpayers raised during their CDP hearings. *Giamelli v. Commissioner*, 129 T.C. 107, 112–13 (2007); *Magana v. Commissioner*, 118 T.C. 488, 493 (2002); Treas. Reg. § 301.6330-1(f)(2), Q&A-F3. The only issue petitioner raised at his CDP hearing was challenging the section 6702(a) penalty and underlying tax liability. Petitioner did not raise any collection alternatives. Thus, the Court will only review this case as to petitioner’s challenge to the section 6702(a) penalty.

III. *Underlying Liability*

The penalty at issue in this case is imposed by section 6702(a), which provides that any person who “files what purports to be a return of tax imposed . . . but which (A) does not contain information on which the substantial correctness of the self-assessment may be judged, or (B) contains information that on its face indicates that the self-assessment is substantially

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incorrect,” and the return “is based on a position which the [IRS] has identified as frivolous” or “reflects a desire to delay or impede the administration of federal tax laws” is liable for a section 6702(a) penalty.

In the instant case petitioner submitted a Form 1040 with zeroed out income and attached Forms 4852 that further included zeroed out income. The arguments he made on the face of these forms were frivolous in nature and have been rejected repeatedly by this and other courts. Petitioner has not advanced or provided any evidence beyond these frivolous arguments that his income reported to the IRS by third parties was incorrect.

The IRS bears the burden of showing supervisory approval for the section 6702(a) penalty. See *Kestin v. Commissioner*, 153 T.C. 14, 22 (2019). Respondent provided a copy of the signed Form 8278 as evidence that the penalty at issue was approved by the immediate supervisor of the IRS employee who made the initial penalty determination, prior to the assessment of the penalty. Thus, respondent has met his burden of showing supervisory approval for the section 6702(a) penalty.

Petitioner challenges respondent’s Motion for Summary Judgment with numerous legal arguments that this Court and other courts have found to be frivolous, and specious evidentiary challenges to some documents. Petitioner tries to mask his arguments with specious evidentiary challenges to respondent’s declaration in support of the motion, but petitioner’s assertion as to why the penalty should not be sustained is essentially frivolous. As to disputes to material facts, petitioner has not sufficiently shown

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that a genuine dispute exists as to any material fact.

Ultimately this case rests on the Code's definition of gross income, which is all income from whatever source derived. I.R.C. § 61. This includes wages or money paid for services. See *Coleman v. Commissioner*, 791 F.2d 68, 70 (7th Cir. 1986). Petitioner's tax filings were frivolous on their face and petitioner has not provided evidence or legal arguments that prove otherwise. Respondent's Motion for Summary Judgment supports that petitioner's positions were frivolous. See IRS Notice 2010-33. Under these circumstances there is not any need to catalog petitioner's arguments and painstakingly address them. See *Crain v. Commissioner*, 737 F.2d 1417, 1417 (5th Cir. 1984) ("We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit"). Petitioner's challenge to the section 6702(a) penalty fails and respondent is entitled to a judgment as a matter of law.

IV. *Verification*

The record shows that the AO properly verified that the requirements of all applicable laws and administrative procedures were met in the processing of petitioner's case and that the seizure of petitioner's state tax refund balances the Government's need for the efficient collection of taxes with petitioner's concerns that the collection action be no more intrusive than necessary.

V. *Section 6673 Penalty*

In the Court's November 17, 2023, Order, the Court

warned petitioner that it may impose a penalty up to \$25,000 if he continued to institute or maintain a frivolous or groundless petition or institute or maintain a proceeding primarily for delay. I.R.C. § 6673(a)(1). Since that time petitioner has ignored the Court's warning and has filed numerous documents repeatedly making the same types of arguments that the Court has declared frivolous and the Court concludes that such filings were instituted or maintained primarily for delay. Accordingly, the Court will now impose sanctions on petitioner pursuant to I.R.C. § 6673(a)(1) in the amount of \$2,500.

VI. *Conclusion*

In sum the Court concludes that there is not any genuine dispute as to a material fact and that respondent is entitled to judgment as a matter of law sustaining the notice of determination, upon which this case is based.

Premises considered, it is

ORDERED that respondent's Motion for Summary Judgment, filed May 29, 2024, is granted. It is further

ORDERED that petitioner is liable for a penalty to be paid to the United States pursuant to I.R.C. § 6673(a)(1) in the amount of \$2,500. It is further

ORDERED AND DECIDED that respondent's seizure of petitioner's state tax refund as determined in the notice of determination dated June 5, 2023, upon which this case is based is sustained.

Petitioner is admonished that the Court will consider imposing further I.R.C. § 6673 penalties if he

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continues to make filings that raise a frivolous or groundless position or which the Court concludes are filed primarily to delay the proceedings in this case.

(Signed) Diana L. Leyden
Special Trial Judge

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APPENDIX C

United States Court of Appeals for the Fifth
Circuit

No. 24-60525

ANTHONY DWAYNE WILLIAMS,

Petitioner – Appellant,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent – Appellee.

Appeal from the Tax Court, Internal Revenue Service
Agency No. 10275-23L

Filed October 3, 2025

ON PETITION FOR REHEARING
AND REHEARING EN BANC

Before Jones and Graves, Circuit Judges, and
Rodriguez, District Judge.*

Per CURIAM:

The petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (Fed. R. App. P.40 and 5th Cir. R.40), the petition for rehearing en banc is DENIED.

* United States District Judge for the Southern District of Texas, sitting by designation.

APPENDIX D

**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

The Sixteenth (16th) Amendment to the U.S.
Constitution provides:

Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Art. I, § 2, cl. 3 — Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

Art. I, § 8, cl. 1 — The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; . .

Art. I, § 9, cl. 4 — No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or enumeration herein before directed to be taken.

Statutes

§61. Gross income defined

(a) General definition

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments; (9) Annuities;
- (10) Income from life insurance and endowment contracts; (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

§6201. Assessment authority

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a

reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

§6673. Sanctions and costs awarded by courts

(a) Tax court proceedings

(1) Procedures instituted primarily for delay, etc.

Whenever it appears to the Tax Court that—

(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

(B) the taxpayer's position in such proceeding is frivolous or groundless, or

(C) the taxpayer unreasonably failed to pursue available administrative remedies, the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of \$25,000.

§6702. Frivolous tax submissions

(a) Civil penalty for frivolous tax returns

A person shall pay a penalty of \$5,000 if—

(1) such person files what purports to be a return of a tax imposed by this title but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

(2) the conduct referred to in paragraph (1)—

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(B) reflects a desire to delay or impede the administration of Federal tax laws.

§6751. Procedural requirements

(a) Computation of penalty included in notice

The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

(b) Approval of assessment

(1) In general

No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any addition to tax under section 6651, 6654, or

6655; or

(B) any other penalty automatically calculated through electronic means.

26 C.F.R. § 301.6020-1 Returns prepared or executed by the Commissioner or other Internal Revenue Officers.

(b) Execution of returns—(1) In general. If any person required by the Internal Revenue Code or by the regulations to make a return (other than a declaration of estimated tax required under section 6654 or 6655) fails to make such return at the time prescribed therefore, or makes, willfully or otherwise, a false, fraudulent or frivolous return, the Commissioner or other authorized Internal Revenue Officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise. The Commissioner or other authorized Internal Revenue Officer or employee may make the return by gathering information and making computations through electronic, automated or other means to make a determination of the taxpayer's tax liability.

APPENDIX E

UNITED STATES TAX COURT

ANTHONY DWAYNE)
WILLIAMS,)
) *Filed November 14, 2026*
Petitioner,)
)
v.) Docket No. 10275-23L
)
COMMISSIONER OF)
INTERNAL REVENUE,) Filed Electronically
)
Respondent)

**RESPONSE TO RESPONDENT'S NOTICE OF
OBJECTION TO PETITIONER'S FIRST
REQUEST FOR ADMISSIONS**

PETITIONER OBJECTS to respondent's Notice of Objection to respond to Petitioner's First Request for Admissions¹ submitted by respondent on November 7, 2023².

PETITIONER does not object to having a conference call with all parties to clarify the issues in this case, however, respondent's request should not obstruct respondent from responding to petitioner's

¹ Petitioner's First Request for Admission was submitted on October 30, 2023.

² Petitioner will address each number paragraph as they appear in respondent's Notice.

First Request for Admissions pursuant to Tax Court (T.C.) Rule 90.

IN SUPPORT THEREOF, petitioner respectfully states the following:

1. Petitioner respectfully request respondent to respond honestly and in good faith to petitioner's First Request for Admissions.

2. Petitioner agrees with respondent, that this case is for the collection of petitioner's frivolous filing penalty liability for the year 2015 in the amount of \$5,000.00. Petitioner further states, this is also a review of petitioner's underlying liability³ pursuant to IRC §6330(c)(2)(B)⁴ , because petitioner did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

3. Petitioner agrees with respondent that petitioner also seeks review of the levying of his property by respondent, specifically my State Tax refund in the amount of One thousand eight hundred sixty-seven dollars and zero cents (\$1867.00) to partially satisfy the above liability.

4. Petitioner believes proper challenges to his

³ One must be found Liable first before assessed with a violation penalty.

⁴ IRC §6330(c)(2)(B) - The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

liabilities have already been revealed through the informal discussions during the Collection Due Process Hearing. Moving forward, petitioner will continue to use informal consultation or communication before utilizing formal communication. Not once do I refer to my earnings as “income”. My earnings are from my labor, made from my inalienable right to follow any common occupation of life⁵. (See *Butchers' Union Co. v. Crescent City Co.* 111 U.S. 746 (1883)). The United States Constitutional meaning of “income” was defined in *Doyle v. Mitchell Brothers Company* 247 U.S. 179 (1918), 492⁶. I did not make nor received “income” within the meaning of that term. My proper arguments to date are that my undisputed earnings are not subject to federal taxation under the “excise” laws of the United States because:

a. It does not matter if you are a federal employee or not. This is not what makes you liable for the federal excise “income” tax. Your voluntary engagement⁷ in the activity that is subject to federal

⁵ I discuss this in more detail in my “MEMORANDUM IN OPPOSITION TO RESPONDENT’S (IRS) INTENT TO LEVY” starting on page 28, attached to petitioner’s First Request for Admissions as Exhibit 11, and as Exhibit A, attached to respondent’s “Motion For Protective Order” starting on Exhibit page 92.

⁶ I discuss this in more detail in my “MEMORANDUM IN OPPOSITION...” starting on page 45, attached to petitioner’s First Request for Admissions as Exhibit 11, and as Exhibit A, attached to respondent’s “Motion For Protective Order” starting on Exhibit page 109.

⁷ See petitioner’s “MEMORANDUM IN OPPOSITION...” starting on page 30, attached to petitioner’s First Request for Admissions as Exhibit 11, and as Exhibit A, attached to

“income” tax under the excise laws of the United States is what makes you liable.

b. Admits, also see petitioner’s response to item 4(a) supra. Petitioner further states, the distinction made or reference to a federal employer and federal employee is to eliminate any doubt if petitioner’s earnings are indeed “wages”. Federal employees “wages” are indeed subject to federal “income” taxes by default without apportionment since the inception of the federal “income” tax. This was also sealed by the passage of the US Constitution Sixteenth (16TH) Amendment to tax the National Government⁸ without apportionment among the States in proportion to population, including all corporations and joint stock companies for profit.

c. Petitioner did not make nor received “income”. See petitioner’s response to item 4 and 4(a), supra.

d. Admits, petitioner is a “nontaxpayer”⁹ and is

respondent’s “Motion for Protective Order” starting on Exhibit page 94.

⁸ See petitioner’s “MEMORANDUM IN OPPOSITION...” starting on page 35 “The Legislative Intent of the 16TH Amendment”, attached to petitioner’s First Request for Admissions as Exhibit 11, and as Exhibit A, attached to respondent’s “Motion for Protective Order” starting on Exhibit page 99.

⁹ Long v. Rasmussen 281 F. 236 (D. Mont. 1922)
“The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal,

not a “person” described in IRC §6671(b)¹⁰. Respondent has no personal or firsthand knowledge that petitioner is such “person”.

e. Admits, Petitioner did not engage in a federal economic activity subject to federal “income” taxes under the “excise” laws of the United States. Respondent does not have personal or firsthand knowledge of me doing so.

f. I don’t understand why respondent keeps calling my actions positions. Respondent has yet to prove how the rebutting of a third-party’s inaccurate information return concerning receiving “income” and or “wages” is a position at all.

g. Petitioner is aware that respondent does not have the authority to assess a frivolous return penalty. I understand that the IRC §6702 penalty is considered an assessable penalty. The §6702 civil penalty can be applied independent of a tax assessment. The penalty is not subject to deficiency procedures in accordance with §6703(b) (–Deficiency procedures not to apply) pursuant to Subchapter B of chapter 63. This is only in respect to the assessment¹¹ or collection of the penalty. This means respondent is not required to send

and they are neither of the subject nor of the object of the revenue laws. * * * [Id. 281 F. at 238.]”

¹⁰ See petitioner’s “MEMORANDUM IN OPPOSITE-ION...” starting on page 69, attached to petitioner’s First Request for Admissions as Exhibit 11, and as Exhibit A, attached to respondent’s “Motion for Protective Order” starting on Exhibit page 133.

¹¹ A §6702 penalty amount is prefixed and is not dependent on an assessment amount of the tax, therefore not subject to deficiency procedures concerning the assessment.

out a Deficiency Notice before applying the penalty and may immediately start collection procedures. However, SUBPART D—MISCELLANEOUS PROVISIONS, §6020(b)(1) must be satisfied before a §6702 penalty can be applied or collected. See 26 C.F.R. § 301.6020-1(b). This has to do with the liability aspect of my claim or arguments.

5. At the time of filing those petitions with the Court I was very ignorant of many of the Court Rules and procedures. My instant petition was flawed from the start and did not state the properly pleadings. I did not use any of the discovery tools at my disposal and my knowledge of the Federal Rules of Civil Procedure and Evidence was limited. Since then I have become increasingly more educated regarding these matters and seek to adhere to the rule of law in my affairs with this Court.

6. Admits, petitioner's instant petition contained 100 paragraphs, petitioner also state, that there is no court rule that limits the maximum number of paragraphs a petition could have. At any rate, there were many issues that needed to be sorted out. It was not my intention to have 100 paragraphs.

7. Admits respondent file an answer addressing all 100 paragraphs but denies for lack of knowledge or sufficient information about the legitimacy of respondent's complaint. All of my arguments are relevant to the case and are backed-up with relevant facts that can't be disputed.

8. Admits, respondent filed their Answer to petitioner's instant petition on August 22, 2023. Petitioner also states that several of respondent's answers to petitioner's instant petition were confusing,

evasive or contradicting that required additional clarification.

9. Admit, petitioner filed a Motion to Strike a portion the respondent's Notice of Determination (attached to respondent's Answer) on August 24, 2023, and responded to respondent's Response, filed September 11, 2023, on the same day (September 11, 2023).

10. Admits in part, petitioner filed a 28 page First Request for Admissions which contained 71 paragraphs with 12 Exhibits attached. All the pages together totaled one hundred sixty-five (165) pages. Petitioner also states that several of respondent's answers to petitioner's instant petition were confusing, evasive or contradicting. Most of petitioners request for admissions paragraphs were meant for clarification. Petitioner believed this method would be more beneficial than using T.C. Rule 90(e), which would have involved the Court.

11. Petitioner believes respondent's complaint is nonsensical. Respondent is insinuating that responding to petitioner's First Request for Admissions would be unduly burdensome because the instant liability to be collected is for a frivolous filing penalty. This appears to mean that, if the amount was more, it would not be burdensome for respondent.

12. Admits petitioner's First Request for Admissions contained a total of one hundred sixty five (165) pages, which included 28 pages that contained 71 paragraphs of Request for Admissions and 12 Exhibits attached that have already been exchanged with respondent during the administrative hearing. I believe that, allowing my First Request for Admissions

to be submitted now or later would still consume the same amount of resources.

13. Respondent claims in the instant case, neither petitioner nor respondent has had the opportunity to explore informal discovery, however, on the contrary, per respondent's own admission petitioner and respondent has had the opportunity to explore informal discovery. (See respondent's Notice of Objection to Petitioner's First Request for Admissions item 12). T.C. Rule 90(a) state in part that:

"A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters which are not privileged and are relevant to the subject matter involved in the pending action, but only if such matters are set forth in the request and relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request..."

Petitioner has done this. T.C. Rule 90(a) goes on to state:

"...However, the Court expects the parties to attempt to attain the objectives of such a request through informal consultation or communication before utilizing the procedures provided in this Rule."

Per respondent's own admission petitioner and respondent has had the opportunity to explore informal discovery. (See respondent's Notice of Objection to Petitioner's First Request for Admissions item 12). The only other rule requirement that would

be relevant in this case is that a Request for Admission without leave of Court may commence 30 days after joinder of issue and must be filed no later than 45 days prior to the date set for call of the case from a trial calendar. Here both requirements are met. The Rule does not require that a trial date must be set before submitting. The cases cited by respondent has mostly to do with T.C. Rule 71 (Interrogatories) and Rule 72 (Production of Documents) being requested without first utilizing informal consultation or communication. Petitioner has requested neither; however, I will ensure utilizing informal consultation or communication first when I do.

14. See petitioner's response to item 13, supra. T.C. Rule 90 does not require a trial date to be set before submitting a Request for Admissions. As of the composing of this Objection, petitioner has already contacted the Court and all other parties involved concerning the conference call with the Court and opposing counsel through email.

15. Petitioner believes why this is good reason to deny respondent's protective order. Respondent has accused petitioner of being excessively burdensome, repetitive with a harassing behavior. I have been courteous, polite and professional while dealing with respondent. I have not harassed respondent in any way. I don't know why respondent would tell such lies on me. I have done nothing to respondent to receive such hostility. Petitioner believes his First Request for Admissions was not excessively burdensome, repetitive or harassing, as a matter of fact, I took extra time to ensure my Request was simple, easy and less burdensome to answer. If my Request for Admissions was for clarification to respondent's previous answer, I

took the extra time and cited or quoted respondent's previous answer to avoid the need of having to go back and forth between documents to see what the admission was referring to. If I referenced a specific statute, I also included (as an Exhibit) a true and exact copy of that statute to avoid the need of having to stop and look it up. This extra precaution may have made my First Request for Admissions appear burdensome, but in all actuality it made it less burdensome and less time consuming to read by eliminating or reducing the need to go back and forth between documents. I have not filed any interrogatories in this case yet.

16. Petitioner does not believe that the content and timing of my First Request for Admissions warrants a good cause to grant a protective order that (1) prohibits using discovery until the parties engage in informal discovery because petitioner has already stated if and when I use interrogatories or request for production I will do it informally first. (See petitioner's response to item 13, supra,) and (2) although I believe a conference call between the parties led by the Court would be beneficial, I don't believe it should obstruct respondent from responding to petitioner's First Request for Admissions that has already been submitted.

17. Petitioner does not believe that a Motion for Summary Judgment is the most effective way to resolve this matter. I believe a conference call between the parties led by the Court would be beneficial.

**Additional Arguments Concerning CDP Hearing
and Liabilities**

18. Petitioner reserve the right to challenge the

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underlying liability pursuant to §6330(c)(2)(B)¹² .

19. The respondent “abused his discretion” in determining to proceed with collection without making the requisite verification in accordance with IRC §6330(c)(1) , that the requirements of any applicable law or administrative procedure have been met. 26 C.F.R. § 301.6020-1(b) was not done by respondent before applying the §6702 civil penalty.

Accordingly, petitioner objects to respondent’s Notice of Objection to Petitioner’s First Request for Admissions and request that this Court issue an order consistent with this Objection.

Respectfully submitted,

By: /s/ Anthony D. Williams 11/14/2023
Anthony D. Williams Date
Petitioner

¹² §6330(c)(2)(B)
(B) Underlying liability

The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

APPENDIX F



United States Tax Court

Washington, DC 20217

ANTHONY DWAYNE WILLIAMS		<i>Served</i> <i>11/17/2023</i>
Petitioner		
v.		Docket No. 10275-23L
COMMISSIONER OF INTERNAL REVENUE		
Respondent		

ORDER

On June 27, 2023, petitioner filed a Petition disputing a Notice of Determination Concerning Collection Actions under IRS Sections 6320 or 6330 of the Internal Revenue Code dated June 5, 2023 (notice of determination). Among other documents, petitioner attached to the Petition the notice of determination.

Respondent filed an Answer on August 22, 2023, and attached the same notice of determination along with three pages of an Attachment to the notice of determination that detailed the summary and recommendation of the Independent Office of Appeals which had issued the notice of determination.

On August 24, 2023, petitioner filed a Motion to Strike (motion to strike) pages 4 through 6 of the

document that respondent attached to his Answer. Petitioner asserted that such pages were in the form of evidence and that if they would not be stricken it would prejudice the petitioner. Petitioner asserted that under Rule 36(b) which directs respondent to file a copy of a relevant jurisdictional document pages 4 through 6 are not included.

Respondent filed a Response to Motion to Strike on September 11, 2023 (response), and contended that the portion of the notice of determination petitioner attached to his Petition incorporates by reference pages 4 through 6 and requested that petitioner's motion to be denied.

Petitioner filed a Response to Response to Motion to Strike on September 11, 2023 (response to response), responding to respondent's response and continued to assert that the additional pages 4 through 6 were not part of the notice of determination.

On October 10, 2023, an Order assigned this case to the undersigned. On October 19, 2023, the chamber's administrator of the undersigned reached out to both Served 11/17/23 Docket No.:10275-23L Page 2 of 3 parties by email to request a conference call to discuss petitioner's motion to strike. However, a conference call could not be scheduled.

Petitioner also filed a First Request for Admissions on October 30, 2023 (first request for admissions), which requested respondent to respond to 71 requests for admission and contained 11 exhibits. On November 7, 2023, respondent filed an Objection to First Request for Admissions (objection). Respondent contends that the first request for admissions is unduly burdensome because the instant liabilities that are the basis of the notice of determination are limited to frivolous filing

penalties. Respondent further contends that neither party has first engaged in informal discovery, and that the request for admissions contains hundreds of pages of exhibits that have already been exchanged by the parties. On November 14, 2023, petitioner filed a Response to Objection to First Request for Admissions.

Also on November 7, 2023, respondent filed a Motion for Protective Order asking the Court to order that respondent did not have to answer to the first request for admissions to “protect the respondent from annoyance, embarrassment, and undue burden and expense of responding to the First Request for Admissions”.

This being a case that involves an administrative record, Rule 93(a) requires the parties, no later than 45 days after the notice of setting a case for trial is served or as ordered by the Court to file “the entire administrative record (or so much of that record as either party may deem necessary for a complete disposition of the issue or issues in dispute) stipulated as to its genuineness. If, however, the parties are unable to file a stipulated administrative record, the Commissioner must file with the Court, no later than 45 days after the notice setting the case for trial is served, the entire administrative record, appropriately certified as to its genuineness by the Commissioner or by an official authorized to act for the Commissioner in such situation.” Rule 93(c) explains that “[t]he term ‘administrative record’ generally refers to all documents and materials received, developed, considered, or exchanged in connection with the administrative determination.”

Accordingly, although the case has not yet been set for trial, the Court will order the parties to comply within 45 days of this Order with Rule 93(a). Because

an administrative record would include the pages petitioner seeks to strike, the Court will deny petitioner's motion to strike with prejudice.

Further, until the complete administrative record is filed in this case, any request for admissions is premature. Therefore, the Court will direct that respondent is not required to respond to petitioner's First Request for Admissions at this time and will dismiss as moot and without prejudice respondent's Motion for Protective Order.

Petitioner is warned that section 6673(a)(1) empowers the Court to impose a penalty of up to \$25,000 when a taxpayer pursues an action in the Tax Court and the Court determines, inter alia, that either (1) the taxpayer instituted or maintained litigation in the Court primarily for delay; or (2) the taxpayer's litigation position is Docket No.:10275-23L Page 3 of 3 frivolous or groundless.

Upon due consideration, it is.

ORDERED that petitioner's Motion to Strike filed August 24, 2023, is denied with prejudice. It is further.

ORDERED that petitioner's First Request for Admissions filed October 30, 2023, is hereby stricken from the Court's record and shall not be viewable as part of this case. It is further.

ORDERED that respondent's Motion for Protective Order filed November 7, 2023, is denied without prejudice as moot. It is further

ORDERED that on or before January 2, 2024, the parties shall comply with Rule 93 and either file a stipulated administrative record or respondent shall file the entire administrative record appropriately certified as to its genuineness. It is further

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ORDERED that if petitioner asserts that the administrative record filed as ordered is not complete, petitioner may move on or before February 5, 2024, to complete or supplement the record.

(Signed) Diana L. Leyden
Special Trial Judge

APPENDIX G

McCormick v. Peterson, U.S. Dist. LEXIS 17561, 94-1 U.S. Tax Cas. (1993)

In *McCormick v. Peterson*, 1993 U.S. Dist. LEXIS 17561 (E.D.N.Y. 1993) the court held:

... the first amendment to the United States Constitution protects the right of protest to any branch of the Government. See, e.g., *Bill Johnson's Restaurant, Inc. v. Nat'l Labor Relations Bd.*, 461 U.S. 731 (1983) (right protects an employer's access to the courts); and *City of Madison Joint School Dist. No. 8 v. Wisconsin Employment Relations Comm'n*, 429 U.S. 167 (1976) (right protects teacher's speech at school board meeting).

The first amendment to the Constitution provides explicitly: "Congress shall make no law respecting . . . the right of the people . . . to petition the Government for a redress of grievances." What is prohibited to Congress is forbidden to the tax bureaucracy. See *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508 (1972) (right to petition extends to all departments of the Government). A protest is an expression of grievance, seeking redress that the Internal Revenue Service may not throttle or mute by threats of penalties.

The words "under protest" did not alter the meaning of the jurat. The return was filed under penalties of perjury. It was not frivolous. Mr. McCormick properly exercised his first amendment right to protest to the Internal Revenue Service while still complying with his statutory obligation to file a timely tax return". (Emphasis added).