

**UNITED STATES TAX COURT  
WASHINGTON, DC 20217**

GERALD P. NEW,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 29161-12 L.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER OF DISMISSAL AND DECISION**

This is a collection due process (“CDP”) case brought under section 6330(d). The notice of determination (issued by IRS Appeals) on which this case is based indicates that at the agency-level CDP hearing petitioner Gerald P. New questioned the liabilities at issue, was given information showing their derivation, and did not present contrary information, and that Mr. New did not propose any collection alternative. Trial in this case was originally scheduled to be held at a session beginning September 30, 2013, but it was continued for the benefit of Mr. New and was scheduled to be tried at the upcoming session in Winston-Salem beginning September 22, 2014.

However, on July 10, 2014, respondent filed a motion to dismiss the case for lack of prosecution, alleging--

3. The undersigned [respondent’s counsel] arranged for petitioner to contact a local revenue officer for the purpose of obtaining a collection alternative. Petitioner has not provided any financial information for said purpose.

4. Petitioner has not responded to correspondence from the undersigned and the phone number listed in the petition is out of service.

**SERVED Aug 22 2014**

On August 1, 2014, Mr. New filed a response, objecting to the motion to dismiss. However, the response does not materially contradict what the IRS alleged. Mr. New describes having requested information from the IRS (at unspecified times) but does not indicate he has obtained or provided to the IRS any information that would advance this case. He does not propose any schedule according to which he would be able to obtain information, instead stating that “there is no way to verify any of my payments”.

The Court attempted to schedule a telephone conference with the parties, but was unable to reach petitioner. We therefore issued an order on August 6, 2014, requiring that “petitioner shall telephone the Chambers of the undersigned judge (at 202-521-0850) for the purpose of scheduling a prompt pretrial telephone conference with the Court and the parties.” We have received no call from Mr. New.

We will grant the IRS’s motion to dismiss.

We point out the following to Mr. New: Rule 162 permits a party to file a motion to vacate a decision within 30 days after the decision has been entered. If by September 22, 2014, Mr. New has obtained information that would show that his tax liability has been paid to an extent greater than the IRS acknowledges, or would show that he is eligible for a collection alternative, or would otherwise show that this decision should be vacated, then he should appear at the calendar call on that date and make an oral motion for the Court to vacate the decision. In the ordinary course this case would not be called (since it will have been dismissed), so if he intends to make such a motion, then he should arrive early on September 22 and should advise both his IRS counsel and the Court’s trial clerk that he is there and wishes to make a motion.

To give effect to the foregoing, it is

ORDERED that the IRS’s motion to dismiss for lack of prosecution is granted, and it is further

ORDERED AND DECIDED that the determinations set forth in the Notice of Determination Concerning Collection Action under Section 6330 issued to petitioner on November 1, 2012, for petitioner's employment taxes for the taxable periods ended March 31 and December 31, 2009, and March 31, September 30, and December 31, 2000, and petitioner's civil penalty for the period ended December 31, 1999, upon which this case is based, are sustained in full.

**(Signed) David Gustafson**  
**Judge**

ENTERED: **AUG 22 2014**