

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

MONTGOMERY W. SEITZ & STEPHANIE W. )  
 SEITZ, )  
 )  
 Petitioner(s), )  
 )  
 v. ) Docket No. 21998-11.  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent )  
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**ORDER OF DISMISSAL AND DECISION**

This case was on the Court’s June 3, 2013 trial calendar for Houston, Texas, and arises from the Seitzes’ 2005 tax year. It was continued a first time when Mr. Seitz promised in 2012 to file an offer in compromise. He didn’t do so, and when the case was set for trial, the parties again asked for a continuance to let him try again. Mr. Seitz was unsuccessful in connecting with the low-income taxpayer clinics that the Court referred him to, and he finally mailed in the offer in compromise himself. It lacked the financial information that the IRS requires, however, and was understandably rejected. The Court again gave him more time, but he has yet to submit the required form. He has also never met with the IRS lawyer handling his case to participate in informal discovery.

The IRS finally moved on August 21, 2014 to dismiss the case for lack of prosecution. Mr. Seitz never filed the response that the Court ordered.

What takes this case out of the routine is the Mr. Seitz has spoken with the Court and IRS counsel several times – the Court believes him when he describes the failure of his small business (the business that gave rise to the deficiency), and believes him when he describes the severe health problems that his wife has

suffered. In a conference call on October 16, 2014 he again described his extreme hard luck in business and his family's health.

But this case has to come to a close. As the Court explained to him, even when a tax debt is assessed, the part of the IRS that will try to collect it will consider a properly submitted offer to compromise or will record the debt as currently not collectible if a taxpayer can show his straitened circumstances. Another part of the IRS – called audit reconsideration – may even consider whether to reduce a tax debt if a taxpayer finally produces records after the normal time to do so has expired.

It is, however,

ORDERED that the respondent's August 21, 2014 motion is granted, and this case is dismissed for lack of prosecution. It is also

ORDERED and DECIDED that there is a deficiency of \$85,512 in income tax due from petitioners for the tax year 2005.

**(Signed) Mark V. Holmes**  
**Judge**

Entered: **OCT 20 2014**