

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

CLC

KEITH EDGLE GROSS, )  
)  
Petitioner, )  
)  
v. ) Docket No. 27516-15 L  
)  
COMMISSIONER OF INTERNAL REVENUE, )  
)  
Respondent. )

**ORDER AND DECISION**

This section 6330(d)<sup>1</sup> case is before the Court on respondent's motion for summary judgment, filed November 2, 2016. By Order dated November 4, 2016, petitioner's response to the motion was made due on or before November 28, 2016, but no response has been submitted by petitioner. By Order dated May 25, 2017, the motion was assigned for disposition to the undersigned, who is satisfied that the motion can be resolved without the need for hearing. See Rule 50(b)(3). Because petitioner has not responded to respondent's motion, we proceed as though the facts relied upon by respondent in support of his motion are not in dispute. Those facts are easily summarized in the following paragraphs.

In a Supplemental Notice of Determination Concerning Collection Action(s) Under Sections 6320 and/or 6330 of the Internal Revenue Code, dated September 1, 2016 (notice), respondent determined that a levy is an appropriate collection action with respect to petitioner's outstanding 2008 and 2009 Federal income tax liabilities (underlying liabilities). The underlying liabilities, along with related amounts, were assessed in due course pursuant to a decision of this Court entered on April 30, 2013, in Gross v. Commissioner, docket No. 22766-12. That being so, petitioner may not in this proceeding challenge the existence or the amounts of the underlying liabilities. See sec. 6330(c)(2)(B).

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<sup>1</sup>Section references are to the Internal Revenue Code of 1986, as amended. Rule references are to the Tax Court Rules of Practice and Procedure, available on the Internet at [www.ustaxcourt.gov](http://www.ustaxcourt.gov).

**SERVED May 31 2017**

Otherwise, petitioner's request for a collection alternative to the proposed levy was properly rejected by respondent for the reasons set forth in respondent's motion.

Respondent's motion shows that respondent has proceeded as required under section 6330, and nothing submitted by petitioner suggests otherwise. From what has been submitted we find that respondent is entitled to decision as a matter of law. See Rule 121.

Premises considered, it is

ORDERED that respondent's motion is granted. It is further

ORDERED and DECIDED that respondent may proceed with collection as determined in the notice.

**(Signed) Lewis R. Carluzzo**  
**Special Trial Judge**

ENTERED:     **MAY 31 2017**