

UNITED STATES TAX COURT
WASHINGTON, DC 20217

CLC

CRAIG EDWARD LORENZ & WANDA KAY)
LORENZ,)
)
Petitioners,)
)
v.) Docket No. 14865-16
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

ORDER

This case for the redetermination of a deficiency is before the Court on respondent's motion to dismiss for failure to state a claim upon which relief can be granted, filed July 25, 2016. Petitioners' objections to respondent's motion are set forth in their reply, filed August 30, 2016. By Order dated May 25, 2017, respondent's 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).¹

According to respondent, the petition in this case advances only frivolous positions and gives rise to no justiciable issue. We agree with respondent's characterization of the allegations contained in paragraph 6 of the petition and the attachment to that document. Those allegations suggest frivolous positions that are amplified in petitioners' reply. Paragraph 6 of the petition, the attachment to the petition, and petitioners' reply will be stricken. See Rule 52.

Allegations made in paragraph 5 of the petition, however, suggest that the determination made in the notice of deficiency is inconsistent with an agreement reached between the parties before the notice of deficiency was issued. We have our suspicions with respect to the nature of the letter that petitioners claim

¹Rule references are to the Tax Court Rules of Practice and Procedure, available on the Internet at www.ustaxcourt.gov. Section references are to the Internal Revenue Code of 1986, as amended.

embodies that agreement, and whether the parties have, in fact, agreed to petitioners' Federal income tax liability for the year here in dispute.

But the allegations in paragraph 5 of the petition are not referenced in respondent's motion, and respondent has not yet submitted an answer in response to those allegations. At this stage of the proceedings, we are unwilling to resolve this case in the summary manner advanced by respondent. Petitioners, however, are put on notice that advancing positions contemplated in the materials now stricken could subject them to a penalty under section 6673.²

Premises considered, it is

ORDERED that paragraph 6 of the petition, the attachment to the petition, and petitioners' reply are stricken. It is further

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

ORDERED that respondent's answer is due within 30 days from the date of service of this Order.

(Signed) Lewis R. Carluzzo
Special Trial Judge

Dated: Washington, D.C.
May 31, 2017

²Petitioners are obviously aware of the provisions of sec. 6673 as that section is referenced in their reply.