

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

ALLAN LAWRENCE BLANK,)
)
 Petitioner,)
)
 v.) Docket No. 19565-16SL.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER AND DECISION

This collection review case is before the Court on respondent's Motion for Summary Judgment, filed pursuant to Rule 121.¹ Petitioner filed a Notice of Objection to respondent's motion.

In rendering an administrative determination in a collection review proceeding under section 6330, respondent's Appeals Office must verify that all applicable laws and administrative procedures were met in processing the case. Sec. 6330(c)(1). The Appeals Office also must consider any issues raised by the taxpayer, including offers of collection alternatives, appropriate spousal defenses, and challenges to the appropriateness of the collection action. Sec. 6330(c)(2)(A). A taxpayer may challenge the existence or amount of his underlying tax liability if the taxpayer did not receive a notice of deficiency or did not otherwise have an opportunity to dispute such tax liability. Sec. 6330(c)(2)(B). Finally, the Appeals Office must consider whether the collection action balances the need for efficient collection against the taxpayer's concern that collection be no more intrusive than necessary. Sec. 6330(c)(3)(C).

If the underlying tax liability is not in dispute, as is the case here, we review respondent's determination for abuse of discretion. Goza v. Commissioner, 114 T.C. 176, 181-182 (2000). An abuse of discretion occurs if the Appeals Office

¹Rule references are to the Tax Court Rules of Practice and Procedure, and section references are to the Internal Revenue Code, as amended.

exercises its discretion “arbitrarily, capriciously, or without sound basis in fact or law.” Woodral v. Commissioner, 112 T.C. 19, 23 (1999).

Summary judgment may be granted with respect to all or any part of the legal issues in controversy “if the pleadings, answers to interrogatories, depositions, admissions, and any other acceptable materials, together with the affidavits or declarations, if any, show that there is no genuine dispute as to any material fact and that a decision may be rendered as a matter of law.” Rule 121(a) and (b). Respondent’s Motion for Summary Judgment is well founded based on the averments therein and the declaration and related exhibits attached thereto. We conclude that there is no 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.

Petitioner alleges that he was not given an opportunity for an administrative hearing. However, the administrative record shows that petitioner was in regular contact with the Appeals Office and, in the end, he simply failed to provide the Appeals Office with personal financial information that the Appeals Office needed to evaluate his eligibility for a collection alternative. It is well settled that the Appeals Office is justified in rejecting a proposed collection alternative, such as an installment agreement or an offer in compromise, if the taxpayer fails to submit requested financial information or is not in compliance with Federal tax laws. See, e.g., Pough v. Commissioner, 135 T.C. 344, 351 (2010).

The Appeals Office properly verified that the requirements of all applicable laws and administrative procedures were met in processing petitioner's case and that the proposed levy balances the Government's interest in the efficient collection of taxes with petitioner's concerns that the collection action be no more intrusive than necessary. In sum, the Appeals Office did not abuse its discretion in this case.

Upon due consideration and for cause, it is

ORDERED that respondent’s Motion for Summary Judgment, filed May 9, 2017, is granted. It is further

ORDERED AND DECIDED that respondent's notice of determination concerning collection action(s) under section 6320 and/or 6330, dated August 8, 2016, upon which this case is based, is sustained.

(Signed) Daniel A. Guy, Jr.
Special Trial Judge

ENTERED: **JUN 20 2017**