

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

SHEREEN VERONICA WRIGHT,)
)
 Petitioner,)
)
 v.) Docket No. 20546-16 L.
)
 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 on March 16, 2017, with a supporting Declaration.¹ Although the Court directed petitioner to file a response to respondent's motion, she failed to do so.²

Petitioner filed Federal income tax returns for the taxable years 2007 through 2012 (years in issue) reporting tax due but failing to remit payment. Respondent assessed the tax petitioner reported, along with additions to tax and interest, and issued to petitioner demands for payment. Petitioner failed to remit payment.

On December 15, 2015, respondent sent to petitioner a Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 regarding her unpaid Federal income tax liabilities for the years in issue. Petitioner timely requested an administrative hearing and suggested that she would like to offer a collection alternative with the aim of having the lien withdrawn. At no stage of

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

²By failing to respond to respondent's motion, petitioner has waived her right to contest it. Rule 121(d); see, e.g., Lunsford v. Commissioner, 117 T.C. 183, 187 (2001).

these proceedings has petitioner challenged the existence or amount of her tax liabilities for the years in issue.

By letter dated May 27, 2016, the Internal Revenue Service (IRS) Office of Appeals (Appeals Office) notified petitioner that a telephone conference was scheduled for June 30, 2016, and advised petitioner that she must submit a Form 433-A, Collection Information Statement, to permit the Appeals Office to evaluate her eligibility for a collection alternative. Petitioner, however, failed to participate in the telephone conference and did not provide the financial information needed to evaluate her eligibility for a collection alternative. On June 30, 2016, the Appeals Office issued to petitioner a "last chance" letter requesting that she submit within 14 days any information that she wished the Appeals Office to consider. On August 15, 2016, in the absence of any response from petitioner, the Appeals Office issued to petitioner a Notice of Determination Concerning Collection Action(s) sustaining the lien filing for the years in issue.

On September 19, 2016, petitioner filed a petition for review of the above notice of determination. The petition states that petitioner has had difficulty paying her outstanding tax liabilities and that she would like to present a collection alternative.

In rendering an administrative determination in a collection review proceeding under section 6330, the Appeals Office must verify that all applicable laws and administrative procedures were met. 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 or her 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 taxpayer's underlying tax liability is not in dispute, as is the case here, we review the Appeals Office'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 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 alleged in the petition that she would like to present a collection alternative. However, the record shows that she failed to propose a specific installment agreement or other collection alternative during the course of the administrative hearing, nor did she present any of the financial information that the Appeals Office needed to evaluate her 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). We further note that the decision to withdraw a Federal tax lien lies within the Commissioner's discretion and is not mandatory. See sec. 6323(j)(1); Kyereme v. Commissioner, T.C. Memo. 2012-174, at *6. Petitioner offered no argument that would justify withdrawal of the lien.

The record shows that the Appeals Office properly verified that the requirements of all applicable laws and administrative procedures were met in the processing of petitioner's case and that the collection action balances the Government's need for 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.

Premises considered, it is hereby

ORDERED that respondent's Motion for Summary Judgment, filed March 16, 2017, is granted. It is further

ORDERED AND DECIDED that respondent's notice of determination concerning collection action(s) under section(s) 6320 and/or 6330, dated August 15, 2016, upon which this case is based, is sustained.

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

ENTERED: **JUN 29 2017**