

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

MARK A. YOUNG, )  
)  
Petitioner, )  
) **CT**  
v. ) Docket No. 6637-16 L  
)  
COMMISSIONER OF INTERNAL REVENUE, )  
)  
Respondent. )

**ORDER AND DECISION**

In a Notice of Determination Concerning Collection Action(s) under Section 6320 and/or 6330, dated February 10, 2016 (notice), respondent determined that a Notice of Federal Tax Lien (NFTL) is an appropriate collection action with respect to petitioner's outstanding 2004 and 2011 Federal income tax liabilities, including related amounts (underlying liabilities). In a petition filed on March 15, 2016, pursuant to section 6330(d),<sup>1</sup> petitioner challenges that determination. This case is now before the Court on respondent's motion for summary judgment, filed August 22, 2016, and supplemented on July 10, 2017. A hearing was conducted on February 14, 2017, in New York, New York, and a further hearing was conducted on July 10, 2017, in Washington, D.C. Petitioner and respondent's counsel appeared at both hearings and were heard.

The relevant facts relied upon by respondent in support of his motion are easily summarized and not in dispute. The underlying liabilities were assessed in due course following the issuance of a notice of deficiency to petitioner for 2004 and 2011. Petitioner did not petition this Court in response to either of the notices of deficiency, and petitioner does not claim that he failed to receive either of them. Consequently, petitioner may not in this proceeding challenge the existence or the amount of the underlying liabilities. See sec. 6330(c)(2)(B). Nevertheless, a fair reading of the petition and petitioner's presentations at the above-referenced hearing show that petitioner commenced this proceeding only for that purpose.

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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).

According to petitioner, the underlying liabilities are overstated, and his recently submitted amended 2004 Federal income tax return (amended return) should cause at least a portion of the underlying liabilities to be abated. Petitioner did not at the administrative hearing, and does not here request a collection alternative to the NFTL.

The parties disagree over the status of petitioner's amended return. According to petitioner, the amended return is currently under review by someone in the Internal Revenue Service; according to respondent's status report, filed August 2, 2017, it is not. We need not address the parties' disagreement over the point. As noted above, the amount of the underlying liabilities is not properly before the Court in this proceeding. Petitioner was advised at the hearings and is reminded here that he is free to pursue attempts to reduce the underlying liabilities by whatever remedies he might be entitled to independent of this proceeding.

In all other respects, respondent's motion shows that respondent has proceeded as required by sections 6320 and 6330, and nothing submitted by petitioner suggests otherwise. Because there are no material facts in dispute in this case, and because respondent is entitled to decision as a matter of law, see Rule 121, it follows and 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: **AUG 17 2017**