

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

JOSEPH E. LANGANKI,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 20566-16 L.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	
	)	

**ORDER AND DECISION**

This case is on the September 18, 2017 St. Paul, Minnesota trial calendar. It’s based on a notice of determination by the IRS to forcibly collect Mr. Langanki’s unpaid taxes for tax years 2000, 2001, 2003, 2004, 2013, and 2014. Mr. Langanki filed a petition in which he challenged the determination only for the first four of these years (plus 2012, which wasn’t even a subject of the notice). The gist of his disagreement was with the amount of the tax that the IRS said he owed.

On May 24, 2017 the IRS moved for summary judgment. This kind of motion lets the Court review the IRS’s work without a trial. The IRS filed papers in which the IRS’s lawyer argued that no trial is necessary in this case, because (the IRS says) no relevant facts are in dispute -- everything is in the record that the IRS Appeals Officer already looked at (and which is called the “administrative record”). She argues that, on the basis of these undisputed facts, the Court has to rule in the IRS’s favor.

The Court gave Mr. Langanki a chance to respond, which he did on July 17 with a brief letter in which he continued to disagree with the amount of the tax

assessed for 2000, 2001, 2003, and 2004. He also questions whether “there is a 10 year limit on taxes?”, which we take to mean a challenge to the collection based on the statute of limitations for collecting taxes that the IRS has assessed.

We’ll look at both of these arguments. But we look at them only after we apply what is called the “record rule.” What this means is that the Court has to look at the same things that the IRS looked at during the collection due process hearing (the so-called “administrative record”) to decide whether the IRS officer abused his discretion in upholding this decision. (We have to follow this rule because of a case named *Robinette v. Commissioner*, 439 F.3d 455 (8th Cir. 2006).)

The problem with the first argument -- about how much Mr. Langanki owes -- is that he never filed returns for those four years. The IRS prepared what it calls “substitutes for returns” for those years, which section 6020(b) of the Code allows it to do. The records the IRS attached to its motion show that in 2007 it sent a notice of deficiency based on those substitutes for returns to Mr. Langanki for each of these four years. He never challenged those deficiencies by filing a case in Tax Court when he had the chance to do so. Sections 6320 and 6330 say that this means that Mr. Langanki can not challenge the amount that he owes in this case; this also means that the IRS officer didn’t abuse his discretion in reaching the same conclusion.

Mr. Langanki’s second argument -- that maybe too much time has passed for the IRS to keep trying to collect these taxes -- is also mistaken. The IRS does generally have 10 years to collect an unpaid tax once it’s been assessed. IRC § 6502(a)(1). But that time limit gets tolled -- meaning the clock stops -- when a taxpayer files a lawsuit to challenge collection. IRC § 6503(a)(1). That’s what happened here when Mr. Langanki filed his petition.

Because the IRS didn’t commit any mistakes, it did not abuse its discretion, and it is therefore

ORDERED that respondent’s motion for summary judgment is granted. It is also

ORDERED that petitioner’s motion for summary judgment is denied. It is also

ORDERED and DECIDED that respondent may proceed with the collection of petitioner's federal income-tax liabilities for the tax years 2000, 2001, 2003, 2004, 2013, and 2014 as described in the Notice of Determination Concerning Collection Action(s) under Section 6320 and/or 6330 of the Internal Revenue Code, dated August 16, 2016.

**(Signed) Mark V. Holmes  
Judge**

ENTERED: **SEP 11 2017**