



June 6, 2017, petitioners filed a motion for declaratory relief in which they requested similar relief.

Rule 341(b) requires that a whistleblower petition filed in this Court include, among other things, statements explaining why the petitioner disagrees with the IRS award determination, statements setting forth the facts in support of that position, and a prayer setting forth the relief requested. Rule 341(b)(3)-(5). Petitioners do not dispute that the IRS did not institute an administrative or judicial action as a result of the information that they provided. Indeed, the basis of their complaint as outlined in great detail in the petition is that the IRS was negligent in failing to audit the taxpayers that petitioners identified in Form 211.

It is well settled that a whistleblower award under section 7623(b) is dependent upon the IRS initiating an administrative or judicial action and collecting tax proceeds from the target of that action. See Cooper v. Commissioner, 136 T.C. 597, 600 (2011). The Court's authority to review a whistleblower award under section 7623(b) does not contemplate a redetermination of the target taxpayer's liability or that the Court will direct the Commissioner to commence a judicial or administrative action. Id.; see Cohen v. Commissioner, 139 T.C. 299, 302 (2012), aff'd, 550 F. App'x 10 (D.C. Cir. 2014).

Under similar circumstances, in Cohen v. Commissioner, 139 T.C. at 304, the Court explained that: "Petitioner seeks relief that is unavailable because respondent never instituted an action or collected any proceeds. We can appreciate petitioner's frustration that information that he believes is actionable was not pursued. Congress, however, has charged the Commissioner with resolving these claims and has not provided any remedies until after an administrative or judicial action and the collection of proceeds."

Consistent with the preceding discussion and the Court's holding in Cohen v. Commissioner, the petition in this case fails to state a claim for which relief can be granted, as does petitioners' motion for declaratory relief. Consequently, we will deny petitioners' motion for declaratory relief and grant respondent's motion to dismiss. See Rule 123(b).

Upon due consideration and for cause, it is

ORDERED that petitioners' motion for declaratory relief, filed June 6, 2017, is denied. It is further

ORDERED that respondent's motion to dismiss for failure to state a claim upon which relief can be granted, filed October 13, 2016, is granted, and this case is dismissed on the ground that the petition fails to state a claim upon which relief can be granted.

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

ENTERED: **NOV 15 2017**