

UNITED STATES TAX COURT
WASHINGTON, DC 20217

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| ORIN SOLOMON, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Docket No. 18416-17 L. |
| |) | |
| COMMISSIONER OF INTERNAL REVENUE, |) | |
| |) | |
| Respondent. |) | |

ORDER OF DISMISSAL AND DECISION

This collection review case is before the Court on respondent's Motion to Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted.¹ By Order dated October 6, 2017, the Court directed petitioner to file an Objection, if any, to respondent's motion to dismiss on or before October 27, 2017. That Order also invited petitioner to file a proper amended petition setting forth clear and concise assignments of each and every error that he alleges to have been committed by respondent in the collection action in dispute and clear and concise lettered statements of the facts on which he bases the assignments of error. Petitioner failed to file an objection to respondent's motion or an amended petition.

On July 26, 2017, respondent issued to petitioner a notice of determination concerning collection action(s) under section 6320 and/or 6330 (notice of determination), upholding a lien action for taxable years 2008, 2009, 2010, 2011, 2012, 2013, and 2014. Petitioner invoked the Court's jurisdiction under sections 6320 and 6330 by filing a timely petition for review of the notice of determination. At the time the petition was filed, petitioner resided in Maryland.

Petitioner alleges in the petition that he is not subject to Federal income tax. The petition contains only frivolous and groundless arguments. Among other

¹Unless otherwise indicated, section references are to the Internal Revenue Code of 1986, as amended, and Rule references are to the Tax Court Rules of Practice and Procedure.

things, petitioner asserts that: (1) the Internal Revenue Service is authorized to collect taxes only within “Customs port of entry”, “service ports”, and “Customs stations”; (2) the collection activity in dispute is “extortion”; (3) petitioner is not a resident alien or U.S. citizen because he is a “Moor”; and (4) the income tax was repealed in 1939 and was never properly reenacted.

Rule 331(b)(4) requires that a petition filed in this Court contain clear and concise assignments of each and every error that the taxpayer alleges to have been committed in the notice of determination. Rule 331(b)(5) further requires that the petition contain clear and concise lettered statements of the facts on which the taxpayer bases the assignments of error. Any issue not raised in the assignments of error is deemed to be conceded. Rule 331(b)(4). In Pierson v. Commissioner, 115 T.C. 576 (2000), the Court acknowledged and enforced the pleading requirements prescribed in Rule 331(b) and dismissed a petition in a collection case on the ground the taxpayer had failed to state a claim for relief.

As outlined above, the petition in this case does not satisfy the requirements of Rule 331(b)(4) and (5). There is neither assignment of error nor allegation of fact in support of any justiciable claim. Because the petition contains nothing but frivolous and groundless arguments the Court sees no need to catalog petitioner's arguments and painstakingly address them. As the Court of Appeals for the Fifth Circuit has remarked: "We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit." Crain v. Commissioner, 737 F.2d 1417 (5th Cir. 1984); see Wnuck v. Commissioner, 136 T.C. 498, 511 (2011) ("peddlers of frivolous anti-tax positions and their clients who file petitions advancing those positions should not be allowed to divert and drain away resources that ought to be devoted to bona fide disputes").

Petitioner has failed to present a valid challenge to the appropriateness of respondent's collection action or offer any alternative means of collection. In the absence of a valid issue for review, we agree with respondent that petitioner has failed to state a claim upon which relief may be granted. Accordingly, we shall grant respondent's motion to dismiss.

Finally, we take this opportunity to remind petitioner that section 6673(a)(1) authorizes this Court to impose on a taxpayer a penalty not to exceed \$25,000 whenever it appears that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceeding is frivolous or groundless. Although the Court will not impose such a penalty in this

case, petitioner is warned that the Court may not be so forgiving if he returns to the Court and advances frivolous and groundless arguments in the future. See Pierson v. Commissioner, 115 T.C. at 581.

Premises considered, it is

ORDERED that respondent's Motion To Dismiss For Failure To State A Claim Upon Which Relief Can Be Granted, filed October 2, 2017, is granted and this case is dismissed on the ground the petition fails to state a claim upon which relief can be granted. It is further

ORDERED AND DECIDED that the notice of determination concerning collection action(s) under section 6320 and/or 6330, dated July 26, 2017, upon which notice this case is based, is sustained.

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

ENTERED: **DEC 07 2017**