

UNITED STATES TAX COURT
WASHINGTON, DC 20217

GEOFFREY WILLIAM HILL,)
)
 Petitioner,) **ALS**
)
 v.) Docket No. 7183-17SL
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER AND DECISION

This section 6330(d)¹ case is before the Court on respondent’s motion for summary judgment, filed September 21, 2017. By Order of the same date, petitioner was directed to respond to the motion and advised that the failure to do so could result in the granting of the motion and decision entered against him. Petitioner has not responded to the motion. That being so, we proceed as though the facts relied upon in support of respondent’s motion are not in dispute and summarize those facts in the following paragraphs.

In a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330, dated February 28, 2017 (notice), respondent determined that a levy is an appropriate collection action (proposed collection action) with respect to petitioner’s outstanding 2010 Federal income tax liability. That liability was assessed, along with related amounts, with reference to the Federal income tax liability reported on, but unpaid with petitioner’s 2010 Federal income tax return (underlying liability).

By letter dated October 10, 2016, petitioner was notified of respondent’s proposed collection action and advised of his right to request an administrative hearing to challenge it, which he did. According to petitioner, respondent should allow an offer-in-compromise as a collection alternative to the proposed collection action. In response to petitioner’s request, respondent’s settlement officer

¹ Unless 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.

requested certain financial information from petitioner, but that information was not forthcoming, and the notice was issued.

This Court has jurisdiction under section 6330 to review the determination made in the notice. See sec. 6330(d); see Iannone v. Commissioner, 122 T.C. 287, 290 (2004). If, as in this case, the underlying liability is not at issue, then the Court reviews the determination for abuse of discretion. Id. at 182. Whether an abuse of discretion has occurred depends upon whether the exercise of discretion is without reasonable basis in fact or law. Freije v. Commissioner, 125 T.C. 14, 23 (2005); Ansley-Sheppard-Burgess Co. v. Commissioner, 104 T.C. 367, 371 (1995).

As noted, at the administrative hearing petitioner suggested that an offer-in-compromise should be allowed as an alternative to the proposed collection action, but he never actually made one. Furthermore, in order to have considered such a collection alternative, the settlement officer needed certain financial information that petitioner failed to submit in a timely fashion. See, e.g., Olsen v. United States, 414 F.3d 144, 151 (1st Cir. 2005); Murphy v. Commissioner, 125 T.C. 301, 315 (2005), aff'd, 469 F.3d 27 (1st Cir. 2006). It is not an abuse of discretion for respondent to decline to consider an offer-in-compromise where no specific collection alternative proposal is ever placed before the settlement officer. See, e.g., Kindred v. Commissioner, 454 F.3d at 696; Kendricks v. Commissioner, 124 T.C. 69, 79 (2005).

In all other respects, respondent's motion shows that respondent has proceeded as required under section 6330, and nothing submitted by petitioner suggests otherwise. We are satisfied that there are no material facts in dispute in this case, and that respondent is entitled to decision as a matter of law. See Rule 121. That being so, it 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: **JAN 04 2018**