

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

ROSE M. SAUSTEGUI,)
)
 Petitioner,)
)
 v.) Docket No. 20674-17.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER

On October 2, 2017, petitioner filed the petition to commence this case, seeking review of a notice of deficiency issued to her for the 2014 tax year. On February 5, 2018, petitioner filed in this case a document titled “MOTION TO DISMISS”. In that motion, petitioner requests that “this Honorable Court dismiss [this case] in my behalf we have supplied the IRS with all documents and receipts they have requested. They have requested logging miles on my vehicle which were damaged due to hurricane.” By Order dated February 8, 2018, the Court recharacterized petitioner’s motion as a Motion for Summary Judgment. Thereafter, on February 28, 2018, respondent filed a Notice of Objection to petitioner’s motion for summary judgment.

With respect to a motion for summary judgment, petitioner as the moving party bears the burden of proving that there is no genuine dispute as to any material fact and that she is entitled to judgment as a matter of law. Rule 121(b), Tax Court Rules of Practice and Procedure; see also Sundstrand Corp. v. Commissioner, 98 T.C. 518, 520 (1992) aff’d, 17 F.3d 965 (7th Cir. 1994); Naftel v. Commissioner, 85 T.C. 527, 529 (1985). In deciding whether to grant summary judgment, the factual materials and the inferences drawn from them must be considered in the light most favorable to the nonmoving party. See FPL Group, Inc. v. Commissioner, 115 T.C. 554 (2000); Bond v. Commissioner, 100 T.C. 32, 36 (1993).

Respondent opposes petitioner's motion and disputes her assertion that she has substantiated the expenses in dispute. Notably, petitioner has failed to show that she has provided respondent with all requested documents and receipts. Accordingly, drawing factual inferences against petitioner as the moving party, we conclude that petitioner has not shown that there are no material issues of fact in dispute at this juncture of the litigation with respect to whether she is entitled to the deductions and credits claimed on her 2014 tax return and whether she is liable for the accuracy-related penalty under I.R.C. section 6662(a).

This case requires more evidentiary development. Evidence is received by the Court by means of the stipulation and trial process, not through pleadings such as the petition, answer, and any reply. See Rules 91 and 143, Tax Court Rules of Practice and Procedure. Petitioner is strongly encouraged to meet with respondent's counsel, exchange documents, and attempt to settle the case or otherwise execute a stipulation of facts and prepare for a trial.

Upon due consideration, it is

ORDERED that petitioner's Motion for Summary Judgment, filed February 5, 2018, is denied.

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

Dated: Washington, D.C.
March 30, 2018