

UNITED STATES TAX COURT
WASHINGTON, DC 20217

TOM J. KUECHENMEISTER,)
)
 Petitioner,)
)
 v.) Docket No. 24808-16 L.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER

The petition in this case was filed on November 18, 2016, in response to a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 of the Internal Revenue Code (notice of determination). The notice of determination sustained a proposed levy with respect to petitioner's unpaid tax liabilities for 2011 and 2012.

On May 15, 2018, petitioner filed a motion for order of voluntary audit (motion) and attached his affidavit. The title of the motion is unusual. From the contents of the motion, the Court understands that petitioner requests the Court to issue an order to respondent to review Forms 1099-MISC, Miscellaneous Income, issued to petitioner for 2011 and 2012 because petitioner asserts in his affidavit that they overstate the income he received and incorrectly reflect a nonemployee relationship. Petitioner attests that he was an employee. Petitioner also attests that he believes that respondent has acted in a fiduciary capacity or was negligent in allowing the third party reporter to issue the Forms 1099-MISC to him reporting the income as nonemployee compensation.¹

In his petition and throughout the proceedings in this Court, including in his motion, petitioner has consistently challenged the underlying tax liabilities for 2011 and 2012. The underlying tax liabilities for 2011 and 2012 were the result of

¹A taxpayer may submit a Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, to the IRS to challenge his status as an independent contractor.

the Internal Revenue Service (IRS) filing substitutes for return for petitioner when he failed to file Federal individual income tax returns for 2011 or 2012.

Subsequently, the IRS issued a statutory notice of deficiency for each year and assessed the deficiencies set forth in those notices of deficiency. The major source of income upon which the IRS relied to assess the deficiencies was amounts reported on Forms 1099-MISC, by a company for which petitioner apparently drove a truck.

This Court is a court of limited jurisdiction. Sec. 7442. Petitioner has not identified and the Court had not found any statutory provision that would give it authority to order the IRS to conduct a voluntary audit or any of the actions requested by petitioner in his motion. Sec. 7442; see Medeiros v. Commissioner, 77 T.C. 1255, 1259 (1981).

The Court has previously informed petitioner of its limited jurisdiction in its July 6, 2018, order denying petitioner's motion for leave to amend his petition to assert a request for relief for emotional and physical damages. In that order the Court warned petitioner that it may impose a penalty pursuant to section 6673(a)(1) of up to \$25,000 if a taxpayer institutes or maintains a frivolous or groundless position or institutes or maintains a proceeding primarily for delay. The Court again warns petitioner of its authority to impose a section 6673(a)(1) penalty but will not impose a penalty at this time because the motion was filed before the Court's July 6, 2018, order.

Upon due consideration and for cause, it is

ORDERED that petitioner's motion for order of voluntary audit, filed May 15, 2018, is denied.

(Signed) Diana L. Leyden
Special Trial Judge

Dated: Washington, D.C.
July 11, 2018