UNITED STATES TAX COURT
WASHINGTON, DC 20217

CHRISTOPHER R. CHAPMAN & PAMELA J. CHAPMAN,	)	
Petitioners,	)	**CT**
v.	)	Docket No. 3007-18.
COMMISSIONER OF INTERNAL REVENUE,	)	
Respondent	)	

ORDER OF DISMISSAL

On February 12, 2018, petitioners filed a petition with the Court indicating that they were bringing both a deficiency case under section 6213(a) and a collection review case under sections 6320 and/or 6330.[1] The petition states in relevant part: "Never received Notice of Deficiency(s) and never received Notices of Determinations subsequent to any returns filed voluntarily by Petitioners during years 1999-2004."

On March 9, 2018, respondent filed a Motion to Dismiss for Lack of Jurisdiction and a separate Motion to Impose a Penalty under I.R.C. section 6673. On March 21, 2018, respondent filed a Motion to Permit Levy.

On March 23, 2018, petitioners filed separate Responses in opposition to respondent's motion to dismiss and motion to impose a penalty. On March 30, 2018, petitioners filed a Response in opposition to respondent's motion to permit levy.

[1]Unless otherwise indicated, section references are to sections of the Internal Revenue Code, as amended and in effect for the taxable years in issue, and Rules references are to the Tax Court Rules of Practice and Procedure.

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Background

Petitioners have a long history of failing to file Federal income tax returns, and in many instances the Internal Revenue Service (IRS) has processed substitutes for return under the authority prescribed in section 6020(b). Petitioners are no strangers to the Court--they have both now filed three petitions with the Court concerning (in relevant part) their Federal income tax liabilities for the taxable years 1999 to 2004.

I. Docket Nos. 30014-15L and 30031-15L

Mr. Chapman filed a petition with the Court at docket No. 30014-15L challenging a notice of determination concerning a proposed collection action for the taxable years 1999 through 2004, and Mrs. Chapman filed a petition with the Court at docket No. 30031-15L challenging a notice of determination regarding a proposed collection action for the taxable years 1999 through 2001. The Court granted the Commissioner's motions for summary judgment in those cases, noting in the process that petitioners were barred from challenging the existence or amount of their tax liabilities for the years in question consistent with the provisions of section 6330(c)(2)(B).[2] The U.S. Court of Appeals for the Eleventh Circuit affirmed the Court's decisions by way of an unpublished opinion, see Chapman v. Commissioner, 715 F. App'x 885 (11th Cir. 2017), and those decisions are now final. See sec. 7481(a)(2)(A).

II. Docket Nos. 22516-17 and 22520-17

Mrs. Chapman and Mr. Chapman filed petitions with the Court at docket Nos. 22516-17 and 22520-17, respectively, indicating that they were seeking to invoke the Court's jurisdiction to redetermine a tax deficiency and to review a collection action and alleging that they had never received notices of deficiency or notices of determination for the taxable years 1993 through 2017.

The Commissioner ultimately filed motions to dismiss for lack of jurisdiction in both cases informing the Court that petitioners had no objection to the Court granting the motions to dismiss. In Mrs. Chapman's case, the parties

[2]The Court noted that petitioners did not deny receipt of relevant notices of deficiency referenced in the Commissioner's motions or otherwise challenge a specific entry on any of the attachments to those motions.

agreed that no notices of deficiency or notices of determination had been issued to her for the taxable years 1993 to 1998 and 2002 to 2017, that the petition was not timely filed as to notices of deficiency issued to her for the taxable years 1999 through 2001, and that notices of determination issued to her for the taxable years 1999 through 2001 had been adjudicated by the Court at docket No. 30031-15L and affirmed on appeal. In Mr. Chapman's case, the parties agreed that the petition was not timely filed as to notices of deficiency issued to him for the taxable years 1993 through 2004, that no notices of deficiency were issued to him for the taxable years 2005 through 2017, that no notices of determination were issued to him for the taxable years 1993 through 1998 and 2005 through 2017, and that notices of determination for the taxable years 1999 through 2004 had been adjudicated by the Court at docket No. 30014-15L and affirmed on appeal. The Court issued Orders of Dismissal for Lack of Jurisdiction granting the Commissioner's motions to dismiss, and those orders are now final. See sec. 7481(a)(1).

III. Docket No. 3007-18

As noted above, the petition in the present case again refers to the taxable years 1999 to 2004 (years in issue). In their response to respondent's motion to dismiss, petitioners acknowledge that they have disputed the taxable years 1999 to 2004 in previous actions before the Court, but allege that they have never challenged the assessed income tax deficiencies on the ground that they derive from substitutes for return prepared by the IRS pursuant to section 6020(b). Specifically, petitioners assert they did not file income tax returns for the years in issue and, consequently, there can be no tax deficiencies.

Petitioners also object to respondent's motion to impose a penalty and motion to permit levy. They acknowledge that they have been warned about the possibility of sanctions if they continue to institute proceedings containing frivolous or groundless positions or undertake actions to cause delay, but they deny that their current petition is frivolous or that it was filed for an improper purpose. In their responses to each of respondent's motions, petitioners reiterate that they are not liable for income tax deficiencies arising from substitutes for return prepared and processed by respondent under section 6020(b).

Discussion

I. Respondent's Motion to Dismiss for Lack of Jurisdiction

Although respondent correctly points out that the Court's jurisdiction typically depends on a determination by the Commissioner and a timely filed petition, see secs. 6213(a) and 6330(d), we need not focus on those requirements in this case. Rather, we look to the doctrine of res judicata which bars repetitious suits on the same cause of action. See Koprowski v. Commissioner, 138 T.C. 54, 59-60 (2012). This doctrine serves a dual purpose of protecting litigants from the burden of relitigating the same cause of action and promoting judicial economy by preventing unnecessary or redundant litigation. Meier v. Commissioner, 91 T.C. 273, 282 (1988). In short, once a court of competent jurisdiction has ruled on the merits of a cause of action, the parties may thereafter be barred from relitigating every matter which was offered in the prior suit, as well as any matter which might have been offered in the prior suit. Koprowski v. Commissioner, 138 T.C. at 60; see Commissioner v. Sunnen, 333 U.S. 591, 598 (1948).

The doctrine of res judicata applies in respect of Federal tax litigation. As the Supreme Court explained: "Income taxes are levied on an annual basis. Each year is the origin of a new liability and of a separate cause of action. Thus, if a claim of liability or nonliability relating to a particular tax year is litigated, a judgment on the merits is res judicata as to any subsequent proceeding involving the same claim and the same tax year." Commissioner v. Sunnen, 333 U.S. at 598.

As discussed above, Mr. Chapman previously challenged a proposed collection action for the taxable years 1999 through 2004 at docket No. 30014-15L, and Mrs. Chapman previously challenged a proposed collection action for the taxable years 1999 through 2001 at docket No. 30031-15L. The Court granted the Commissioner's motions for summary judgment in those cases and sustained the proposed collection actions. In the process the Court noted that petitioners were barred from challenging the existence or amount of their tax liabilities for the years in issue consistent with the provisions of section 6330(c)(2)(B). The Court's decisions in those cases are final. Consequently, we will dismiss this case on the ground that petitioners are barred by res judicata from challenging either the existence or amount of their tax liabilities for the years 1999 through 2004 or the collection actions sustained by the Court at docket Nos. 30014-15L and 30031-15L.

II. Respondent's Motion to Impose a Penalty Under I.R.C. Section 6673

Section 6673(a) authorizes the Court to require a taxpayer to pay a penalty up to $25,000 whenever it appears that proceedings have been instituted or maintained primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless. Petitioners argue that the Court should not impose a penalty because they have raised a novel question as to whether they are properly characterized as "taxpayers" subject to Federal income tax where they have not filed Federal income tax returns and their tax liabilities arise from substitutes for return made by the Secretary under section 6020(b).[3]

The Court informed petitioners in their collection cases at docket Nos. 30014-15L and 30031-15L that section 6330(c)(2)(B) barred them from challenging the existence or amount of their tax liabilities for the years in issue. Petitioners were reminded of that fact again in connection with the agreed dismissals of the petitions that they had filed at docket Nos. 22516-17 and 22520-17. Against this backdrop, it is clear to the Court that petitioners' latest attempt to challenge their tax liabilities represents a delay tactic and that their argument amounts to nothing more than time-worn tax protestor rhetoric that is both frivolous and groundless. Addressing this matter has resulted in a needless waste of the Court's resources. Accordingly, the Court will grant respondent's motion and impose a penalty of $3,000 on petitioners pursuant to section 6673(a).

III. Respondent's Motion to Permit Levy

As discussed above, the Court sustained respondent's proposed levy actions against petitioners for the years in issue at docket Nos. 30014-15L and 30031-15L, and the decisions in those cases are now final. See sec. 7481(a)(2)(A). Because the Court concludes that the present action is barred by res judicata, the Court sees no impediment to respondent proceeding with the levy actions previously sustained at docket Nos. 30014-15L and 30031-15L. Accordingly, respondent's motion to permit levy is denied as moot.

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[3]Sec. 6020(b)(1) expressly authorizes the Secretary to make a return "[i]f any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return". Sec. 6020(b)(2) further provides that "[a]ny return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes."

Upon due consideration and for cause, it is

ORDERED that respondent's Motion to Dismiss for Lack of Jurisdiction, filed March 9, 2018, is granted in that this case is dismissed. It is further

ORDERED that respondent's Motion to Impose a Penalty Under I.R.C. Section 6673(a), filed March 9, 2018, is granted and a penalty of $3,000 is imposed on petitioners pursuant to section 6673(a). It is further

ORDERED that respondent's Motion to Permit Levy, filed March 21, 2018, is denied as moot.

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

ENTERED: **JUL 19 2018**