

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PIERRE L. BROQUEDIS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 14214-18.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

ORDER

On October 12, 2018, petitioner filed a Motion To Strike, together with a supporting affidavit. In his motion petitioner moves to strike from respondent's Answer, filed September 12, 2018, paragraph 3, and Exhibit A attached to the Answer on the ground that such paragraph and exhibit are false. Also in his motion petitioner moves to strike from respondent's Answer attached Exhibits B, C, D, and E on the ground that those exhibits are not concise statements of the grounds and supporting facts upon which respondent relies. Thereafter, on November 13, 2018, respondent filed an Opposition to petitioner's motion objecting to its granting. Petitioner then filed a Reply on November 21, 2018, seeking to counter respondent's Opposition.

In a notice of deficiency dated May 22, 2018, respondent determined that petitioner is liable for the following deficiencies in income taxes and accuracy-related penalties:

<u>Year</u>	<u>Deficiency</u>	<u>Penalty</u> <u>I.R.C. sec. 6662</u>
2005	\$41,057	\$8,211
2006	21,054	6,183
2007	17,332	2,940
2008	27,249	5,450
2009	10,295	2,059

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In his petition, petitioner contests respondent's aforementioned deficiency and penalty determinations. Petitioner further alleges and asserts that assessment of any deficiencies and penalties for 2005 through 2009 is barred by the statute of limitations.

In paragraph 3 of his Answer respondent asserts that attached as Exhibit A to the Answer is a complete copy of the notice of deficiency upon which this case is based, except for redactions consistent with Tax Court Rule 27. Further in the Answer respondent contends that the applicable period of limitations for each year in issue had not expired before the issuance of the notice of deficiency, relying on:

(1) for 2005, 2006, and 2007, the 6-year period of limitations applicable under I.R.C. section 6501(e), as suspended by I.R.C. section 7609(e), and as extended by agreement pursuant to I.R.C. section 6501(c)(4);

(2) for 2008, the 6-year period of limitations applicable under I.R.C. section 6501(e), as extended by agreement pursuant to I.R.C. section 6501(c)(4); and

(3) for 2009, agreement pursuant to I.R.C. section 6501(c)(4).

To support the foregoing contention, respondent attached to the Answer as exhibits, (1) Exhibit B, i.e., an analysis of the distributions and dispositions of equity funds petitioner held through his UBS AG account for 2005 through 2009; (2) Exhibit C, i.e., an analysis of interest and dividends petitioner received from his foreign financial accounts for 2005 through 2009; and (3) Exhibits D and E, i.e., various Forms 872, Consents To Extend The Time To Assess Tax, executed by petitioner and respondent for applicable years.

Under Rule 52, Tax Court Rules of Practice and Procedure, the Court may order stricken from any pleading any redundant, immaterial, impertinent, frivolous, or scandalous matter.

Motions to strike are not favored by the Federal courts. A matter will not be stricken from a pleading unless it is clear that it can have no possible bearing on the subject matter of the litigation. Estate of Jephson v. Commissioner, 81 T.C. 999, 1001 (1983). "A motion to strike should be granted only when the allegations have no possible relation to the controversy. When the court is in doubt whether under any contingency the matter may raise an issue, the motion should be denied." Id. If the matter that is the subject of the motion involves disputed and substantial questions of law, the motion should be denied and the allegations should be determined on the merits. Id. In addition, a motion to strike usually will not be granted unless there is a showing of prejudice to the moving party. Id.

Based on a review of the motion papers and the pleadings in this case, the Court concludes that the allegations and exhibits that are the subject of petitioner's Motion To Strike clearly bear a relationship to the issues in this case. The Court further concludes those allegations and exhibits are therefore best left to a determination on the merits. Lastly, the Court concludes that petitioner has failed to show that material prejudice to him will result by a denial of his Motion To Strike. Accordingly, petitioner's motion will be denied. Estate of Jephson v. Commissioner, 81 T.C. at 1003.

Premises considered, it is

ORDERED that petitioner's Motion To Strike, filed October 12, 2018, is denied.

(Signed) Robert N. Armen
Special Trial Judge

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