

constitute an acceptable reply. As such, the Court will direct that petitioner's August 16, 2010, submission be filed as petitioner's Reply and will deny respondent's Rule 37(c) motion.

Although the Court will deny respondent's Rule 37(c) motion, the Court notes that the record in this case is replete with patently frivolous and groundless arguments by petitioner, acting by and through his counsel, Mr. Jerold W. Barringer. Petitioner is advised that I.R.C. section 6673(a)(1) authorizes the Tax Court to require a taxpayer to pay to the United States a penalty of up to \$25,000 whenever it appears that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless. See, e.g., Pierson v. Commissioner, 115 T.C. 576 (2000); White v. Commissioner, 72 T.C. 1126 (1980). Petitioner's counsel, Mr. Jerold W. Barringer, is advised that I.R.C. section 6673(a)(2) authorizes the Tax Court to require an attorney whose actions and arguments unreasonably and vexatiously multiply the proceedings in a case, to pay the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct. Takaba v. Commissioner, 119 T.C. 285, 296-305 (2002); Harper v. Commissioner, 99 T.C. 533, 545 (1992); Powell v. Commissioner, T.C. Memo. 2009-174. We take this opportunity to admonish both petitioner and his counsel, Mr. Jerold W. Barringer, that the Court will consider imposing such penalties should they continue to advance arguments that are frivolous or primarily for delay.

The foregoing considered, it is

ORDERED that the Clerk of the Court is directed to file, as of August 16, 2010, the submission received from petitioner on that date as petitioner's Reply. It is further

ORDERED that respondent's Motion for Entry of of Order That Undenied Allegations in Answer Be Deemed Admitted is denied.

(Signed) John O. Colvin
Chief Judge

Dated: Washington, D.C.
September 20, 2010