

UNITED STATES TAX COURT
WASHINGTON, DC 20217

ALVIN SHELDON KANOFSKY,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 21815-15.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

On March 21, 2017, respondent filed a motion for summary judgment. We will deny that motion without prejudice.

Upon receipt of a motion for summary judgment, we normally order the non-movant to respond and direct him to point out the specific facts in dispute. We instruct that his response should state, by number, any assertion with which he disagrees, should explain the reason for his disagreement, and should cite whatever evidence supports his position. However, respondent’s motion makes this difficult in this case:

The IRS’s notice of deficiency (“NOD”), attached to respondent’s answer, asserts that for tax year 2011 petitioner did not file a return, and the NOD makes various “adjustments to income”, consisting of income items that the IRS alleges petitioner received but did not report as income. Respondent’s motion for summary judgment generally alleges (in para. 6) that the NOD determined income items, and the motion alleges summarily (in para. 8) that the adjustments are substantiated in Exhibits J-M. We infer that respondent means to assert that petitioner received income items, but he did not affirmatively so assert, and we cannot expect that petitioner will make an orderly and detailed response to respondent’s summary assertions. The motion and supporting memorandum are largely devoted to describing petitioner’s prior litigation and his abusive and frivolous positions, which might be relevant to his liability for a penalty under

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section 6673, but respondent has not proposed the imposition of any such penalty. Consequently, most of the commentary about the previous cases seems to be irrelevant here and would be a distraction to petitioner's making a focused response as to his 2011 liability.

If respondent wishes to move for summary judgment, his motion should include separate, numbered assertions as to each adjustment, with citation to the substantiation for that item. Petitioner would then have the opportunity to admit or dispute each item, and to present whatever evidence he relies on to dispute respondent's assertion. It is

ORDERED that respondent's motion for summary judgment is denied without prejudice.

**(Signed) David Gustafson
Judge**

Dated: Washington, D.C.
March 22, 2017